MONTANA LEGISLATIVE HISTORY

Chapter 205 19 91

Bill H 120 S _____ Original bill & history ✓ C

H. Committee on Judiciary,			S. Committee on Ag., Livestock & Irrig.		
Hearing Date(s)	Jan 16	✓ C	Hearing Date(s)	Feb 11 2+13	✓ C
		C		Mar 06	✓ C
		C			C
		C			C
Date Out	Jan 16	✓ C		Mar 07	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

3/18	3RD READING AMENDMENTS CONCURRED	97	1
3/22	SIGNED BY SPEAKER		
3/23	SIGNED BY PRESIDENT		
3/25	TRANSMITTED TO GOVERNOR		
3/29	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 219		
	EFFECTIVE DATE: 01/01/92 - SECTIONS 1-6		
	EFFECTIVE DATE: 03/29/91 - SECTIONS 7, 8		

HB 119 INTRODUCED BY REAM, ET AL.
ALLOW CREATION OF SID TO ACQUIRE PARK LAND

1/08	INTRODUCED		
1/08	REFERRED TO LOCAL GOVERNMENT		
1/09	FIRST READING		
1/17	HEARING		
1/18	COMMITTEE REPORT—BILL PASSED		
1/22	2ND READING PASSED	87	9
1/24	3RD READING PASSED	84	14
	TRANSMITTED TO SENATE		
1/25	FIRST READING		
1/25	REFERRED TO LOCAL GOVERNMENT		
2/07	HEARING		
2/15	COMMITTEE REPORT—BILL CONCURRED		
2/16	2ND READING CONCURRED	28	21
2/18	3RD READING CONCURRED	30	19
	RETURNED TO HOUSE		
2/21	SIGNED BY SPEAKER		
2/21	SIGNED BY PRESIDENT		
2/21	TRANSMITTED TO GOVERNOR		
2/26	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 54	EFFECTIVE DATE: 10/01/91	

HB 120 INTRODUCED BY HAYNE, ET AL.
CREATE FARM ANIMAL AND RESEARCH FACILITY PROTECTION ACT

1/08	INTRODUCED		
1/08	REFERRED TO JUDICIARY		
1/09	FIRST READING		
1/16	HEARING		
1/16	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/22	2ND READING PASSED	54	45
1/24	3RD READING PASSED	57	43
	TRANSMITTED TO SENATE		
1/25	FIRST READING		
1/25	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIG.		
2/11	HEARING		
3/07	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/11	2ND READING CONCURRED AS AMENDED	40	7
3/12	3RD READING CONCURRED	47	2
	RETURNED TO HOUSE WITH AMENDMENTS		
3/16	2ND READING AMENDMENTS CONCURRED	64	30
3/18	3RD READING AMENDMENTS CONCURRED	74	23
3/22	SIGNED BY SPEAKER		
3/22	SIGNED BY PRESIDENT		
3/23	TRANSMITTED TO GOVERNOR		
3/27	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 205	EFFECTIVE DATE: 3/27/91	

HB 121 INTRODUCED BY COBB, ET AL.
REPEAL LAWS ON STATE STORE LICENSES

1/08	INTRODUCED		

LC 0243/01

HOUSE BILL NO. 120

INTRODUCED BY Wayne Stapley

Keller Ellison Cobb Zook Swysgood Peterson Cody M. Hansen Larry Hal Carlson

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE FARM ANIMAL AND RESEARCH FACILITIES PROTECTION ACT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** Short title. [Sections 1 through 5] may be cited as the "Farm Animal and Research Facilities Protection Act".

NEW SECTION. **Section 2.** Definitions. As used in [sections 1 through 5], the following definitions apply:

(1) "Animal" means any warmblooded or coldblooded animal used in food, fur, or fiber production, agriculture, research, testing, or education. The term includes but is not limited to dogs, cats, poultry, fish, and invertebrates.

(2) "Animal facility" includes a vehicle, building, structure, research facility, or premises where an animal is kept, handled, housed, exhibited, bred, or offered for sale.

(3) "Consent" means agreement in fact, whether express or apparent.

(4) "Deprive" means to:

(a) withhold an animal or other property from the owner permanently or for such a period of time that a major portion of the value or enjoyment of the animal or property is lost to the owner;

(b) restore the animal or other property only upon payment of reward or other compensation; or

(c) dispose of an animal or other property in a manner that makes recovery of the animal or property by the owner unlikely.

(5) "Effective consent" means consent by the owner or by a person legally authorized to act for the owner. Consent is not effective if it is:

(a) induced by force or threat;

(b) given by a person that the offender knows is not legally authorized to act for the owner; or

(c) given by a person who by reason of youth, mental disease or defect, or being under the influence of drugs or alcohol is known by the offender to be unable to make reasonable decisions.

(6) "Notice" means:

(a) oral or written communication by the owner or someone with apparent authority to act for the owner;

(b) fencing or other enclosure obviously designed to exclude intruders or to contain animals; or

(c) a sign or signs posted on the property or at the entrance to a building that are reasonably likely to come to the attention of intruders and that indicate that entry is

INTRODUCED BILL
HB 120

forbidden.

(7) "Owner" means a person who has:

(a) title to the property;

(b) possession of the property, whether lawful or not; or

(c) a greater right to possession of the property than the person alleged to have committed the unlawful act.

(8) "Person" means an individual, state agency, corporation, association, nonprofit corporation, joint-stock company, firm, trust, partnership; two or more persons having a joint or common interest; or some other legal entity.

(9) "Possession" means actual care, custody, control, or management.

(10) "Research facility" means a place, laboratory, institution, medical care facility, elementary school, high school, college, or university at which a scientific test, experiment, or investigation involving the use of a living animal is carried out, conducted, or attempted.

NEW SECTION. **Section 3.** **Unlawful** acts. (1) A person who does not have the effective consent of the owner may not acquire or otherwise exercise control over an animal facility, an animal from an animal facility, or other property from an animal facility with the intent to deprive the owner of the facility, animal, or property or to damage

the enterprise conducted at the animal facility.

(2) A person who does not have the effective consent of the owner and who intends to damage the enterprise conducted at an animal facility may not:

(a) damage or destroy an animal facility or an animal or property in or on the premises of an animal facility;

(b) enter an animal facility that is at the time closed to the public with the intent to commit an act prohibited by [sections 1 through 5];

(c) remain concealed in an animal facility with the intent to commit an act prohibited by [sections 1 through 5];

(d) enter an animal facility and commit or attempt to commit an act prohibited by [sections 1 through 5];

(e) enter an animal facility to take pictures by photograph, video camera, or other means; or

(f) enter or remain on the premises of an animal facility if the person:

(i) had notice that the entry was forbidden; or

(ii) received notice to depart but failed to do so.

(3) The provisions of [sections 1 through 5] do not apply to lawful activities of a government agency or its employees who are carrying out their duties under law.

NEW SECTION. **Section 4.** **Action for damage.** (1) A person who has been damaged by reason of a violation of

[section 3] may bring against the person who caused the damage an action in the district court to recover:

(a) an amount equal to three times all actual and consequential damages; and

(b) court costs and reasonable attorney fees.

(2) [Sections 1 through 5] may not be construed to affect any other rights of a person who has been damaged by reason of a violation of [sections 1 through 5]. The provisions of subsection (1) may not be construed to limit the exercise of any rights arising out of or relating to a violation of [section 3].

NEW SECTION. **Section 5.** Penalty. (1) A person convicted of violating [section 3(2)(f)] shall be fined not less than $50 or more than $500 or be imprisoned in the county jail for a term not to exceed 3 months, or both.

(2) A person convicted of an act that violates [section 3(1) and (2)(a) through (2)(e)] and that results in $500 or less in damage or destruction shall be fined not more than $500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(3) A person convicted of an act that violates [section 3(1) and (2)(a) through (2)(e)] and that results in more than $500 in damage or destruction shall be fined not more than $50,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both.

NEW SECTION. **Section 6.** Effective date. [This act] is effective on passage and approval.

-End-

CHAIRMAN--BILL STRIZICH
NORMAL SCHEDULE==> SITE: ROOM 312-2 DAYS: M,T,W,T,F TIME: 8:00 A.M.

SECRETARY-JEANNE DOMME

BILL NO	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0074	1/03	2/07		DO PASS		2/11
STRIZICH, BILL			AUTHORIZE A LEVY FOR JUVENILE DETENTION PROGRAMS			
HB0075	1/25	2/07		TABLED ON 02/08		
RICE, JIM			SURTAX ON LICENSING OF VIDEO GAMBLING MACHINES TO FUND JUVENILE DETENTION			
HB0092	1/03	1/18		TABLED ON 01/21		
DOLEZAL, ED			AUTHORIZE IGNITION INTERLOCK DEVICES FOR DUI OFFENSES			
HB0100	1/05	1/18		TABLED ON 01/23		
RUSSELL, ANGELA			GARNISHMENT & ATTACHMENT OF PROPERTY FOR FAILURE TO PAY MINOR TRAFFIC FINES			
HB0101	1/05	1/18		PASS AS AMENDED		1/22
RUSSELL, ANGELA			SERVE DUI SENTENCES IN SECURE FACILITIES OTHER THAN JAILS			
HB0109	1/05	1/14		DO PASS		1/15
BROOKE, VIVIAN			PROVIDE VICTIM AND WITNESS ASSISTANCE IN JUVENILE FELONY CASES			
HB0113	1/07	1/11		PASS AS AMENDED		1/12
LEE, THOMAS			REVISE DEFINITION OF WITHOUT CONSENT FOR RAPE			
HB0114	1/08	1/16		PASS AS AMENDED		1/18
BROWN, DAVE			NOTIFICATION TO SHERIFFS OF ESCAPE OR RELEASE FROM CONFINEMENT			
HB0120	1/08	1/16		PASS AS AMENDED		1/16
HAYNE, HARRIET			CREATE FARM ANIMAL AND RESEARCH FACILITY PROTECTION ACT			
HB0128	1/09	1/15		TABLED ON 01/15		
FAGG, RUSSELL			CLARIFY CRIME OF UNLAWFUL POSSESSION OF INTOXICATING SUBSTANCE			
HB0129	1/09	1/15		ADVERSE RPT ADOPT		1/17
FAGG, RUSSELL			IMPOUND VEHICLE OF PERSON DRIVING WHILE LICENSE SUSPENDED OR REVOKED			

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bill Strizich, on January 16, 1991, at 8:05 A.M.

ROLL CALL

Members Present:

Bill Strizich, Chair (D)
Vivian Brooke, Vice-Chair (D)
Arlene Becker (D)
William Boharski (R)
Dave Brown (D)
Robert Clark (R)
Paula Darko (D)
Budd Gould (R)
Royal Johnson (R)
Vernon Keller (R)
Thomas Lee (R)
Bruce Measure (D)
Charlotte Messmore (R)
Linda Nelson (D)
Jim Rice (R)
Angela Russell (D)
Jessica Stickney (D)
Howard Toole (D)
Tim Whalen (D)
Diana Wyatt (D)

Staff Present: John MacMaster Legislative Council Staff Attorney
Jeanne Domme, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON HB #120
CREATE FARM ANIMAL AND RESEARCH FACILITY PROTECTION ACT

Presentation and Opening Statement by Sponsor:

REP. HAYNE, HOUSE DISTRICT 10, stated this bill creates the farm and animal and research facilities protection. There are certain groups of individuals in our society that do participate in criminal acts that include vandalism against livestock operators. Because they are concerned about the cruelty they believe is in

involved in raising animals in confinement. We all agree that animals should not be mistreated but we cannot elevate animals to the save level as human beings. Most of us are aware of the great advances of the medical profession and the veterinary contribution being made in part by using animals for research. The necessity for this bill is because farm and ranch animals that have been raised on research facilities should be covered by both state and federal law.

Proponents' Testimony:

Lorna Frank, representing Montana Farm Bureau, gave written testimony in support of HB #120 and handed out a proposed amendment. **EXHIBIT 1 & 2**

Clyde Lee, representing McLaughlin Research Institute, gave written testimony in support of HB #120. **EXHIBIT 3**

David Toppen, Montana University System, stated the University System has numerous animal facilities including livestock research facilities and bio-medical facilities. All the livestock production development projects at these campuses are conducted under the guidelines of the federal government, National Institute of Health, National Science Foundation, and accurate records are kept to insure that our federal funding continues safely under conditions which the animals welfare is protected. Thus far, this large investment of tax payers dollars and federal funds, has not shown itself to be of high risk. We are very concerned that the movements that we have begun to see arising around the country may well arise in Montana. Therefore, we strongly support the passage of HB #120.

Lynn Cornwell, representing The Montana Stock Growers Association, Montana Wool Growers Association, and the Montana Association of State Grazing Districts, gave written testimony in support of HB #120. **EXHIBIT 4**

Les Graham, Montana Department of Livestock, stated that they have a law enforcement division in the State Department of Livestock that gets involved in any mistreatment activities if a complaint is issued.

Cynthia Miller, Lab Animal Technician Supervisor, McLaughlin Research Institute, gave written testimony in support of HB #120. **EXHIBIT 5**

Roger Tippy, Montana Veterinary Medicine Association, stated he supports HB #120 for the same reasons as the other proponents. This bill was supplementing the criminal mischief section 456101 in two significant ways. It would add the trouble damage action. If the owner of any animal facility be a victim, the perpetrator of the act would be liable for damages. Criminal mischief relates to the serious felony of theft or killing of commonly domesticated animal.

Carol Mosher, Montana Cattle Women, gave written testimony in support of HB #120. **EXHIBIT 6**

REP. LARRY GRINDE stated that woman and man are the most important species that we have. To perpetuate our species, research must be done and this is one of the key areas of this bill. It is important for this research to take place. We all have instances in our lives where we may have taken medicines for cures that have been brought to us through research on animals.

Marvin Barber, representing the Agriculture Preservation Association, stated he was in support of HB #120.

Kay Norenberg, representing Women Involved with Farm Economics, stated she was in support of HB #120.

Opponents' Testimony: none

Questions From Committee Members:

REP. BROOKE asked **Les Graham** how do the inspectors see that violation of animals do not occur or come when called for a complaint? **Mr. Graham** said they act initially upon a complaint. But, they have a major policy that if they see abuse of animals of any type, they are to notify their office immediately.

REP. MEASURE asked **Mr. Graham** what reason does he have to believe the provisions presently in the law are not adequate to protect the animals? **Mr. Graham** said one are that has been lacking in the state law is the ability to take action against people who abuse animals.

REP. MEASURE asked **Roger Tippy** if the new law is needed for the labs? **Mr. Tippy** said he would defer the judgement of drafting the bill to the Farm Bureau. For the animals themselves, the law has nothing new. **Mona Frank** said the Farm Bureau felt this would not be a duplication. We thought this would be a bill that would be uncomprehensive and take care of a particular situation that could come up in Montana and was not currently addressed in the statutes as they are now. The theft and trespass statutes may have been covered but felt it was not covered for research facilities, fairs, farm animals, and different activities. **Jim Peterson** said it is necessary because the Animal Research Facilities have been singled out relating to the animal welfare issue. The strengthening of the Civil and Criminal Codes is necessary to provide a deterrent from that happening here in Montana.

Closing by Sponsor:

REP. HAYNE stated because of break-ins, destruction of property, and the release of research animals, up to 20% of research dollars must be used for security. Those dollars should be used for more research toward finding the cure of Aide, cancer and

other killer diseases. The misguided animals rights movement must be stopped.

HEARING ON HB #114
NOTIFICATION TO SHERIFFS OF ESCAPE OR RELEASE FROM CONFINEMENT

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE BROWN, HOUSE DISTRICT 72, stated this bill requests mental health institutions to let the jurisdiction from which an individual is coming from or residing in during the time they were sent to that facility, know if that person escaped from that facility or was released and sent back.

Proponents' Testimony:

Bob Butocovich, Sheriff in Butte Silver Bow, stated it would be a responsible act to support HB #114. The medical history of each case is not of interest to us. We are seeking support because the potential of violence is there and we would like to be made aware to prepare for intervention if we know about the individual's background.

Dan Anderson, Administrator of Department of Health, Department of Institutions, stated the Department supports HB #114 but have several amendments that will help clarify what we believe to be the intent of the bill. **EXHIBIT 7**

Kelly Morse, Director of the Mental Disabilities Board of Visitors, stated they are in support of this bill and also of the amendments proposed by the Department of Institutions. We feel that Mental Health Facilities need a clear direction in notifying law enforcement officials that only those persons charged with a crime be notified. There are lots of myths about what a mental illness is and we want to protect those people who suffer from a mental illness that have not been charged with a crime.

Opponents' Testimony: none

Questions From Committee Members: none

Closing by Sponsor: none

HEARING ON HB #134
CLARIFY CIVIL PENALTY DISTRIBUTION FOR GAMBLING VIOLATION

Presentation and Opening Statement by Sponsor:

REP. BROWN, HOUSE DISTRICT 72, stated this bill clarifies Civil Penalties imposed for a violation of state gambling laws. This bill just changes an incorrect cite in the code and council caught it and asked us to make appropriate reference. The

Closing by Sponsor:

REP. BROWN stated the point of this bill is to correct the status of the law in Montana. I feel we should pass this bill along to the Senate, because if there is no resolution this bill doesn't affect one way or the other what may be done later on.

EXECUTIVE ACTION ON HB #134

Motion/Vote: **REP. BROWN MOVED HB 134 BE TABLED.** Motion carried.

EXECUTIVE ACTION ON HB #120

Motion: **REP. BROWN MOVED HB 120 DO PASS.**

Discussion:

REP. MEASURE stated the intent of the bill is good but it also covers other parts of the law. The sponsor took parts of the bill out of a California law. I feel it is an over reaction in Montana. I am not saying these kinds of acts cannot occur, but I am saying the present law we have pertains to the type of penalties they have in this bill. I recommend this bill do not pass.

REP. KELLER stated the problems this bill points out are a very real threat to the livestock industry in the state. I don't think people realize the very real threat it is. This legislation is needed for a special deterrent for this kind of territory.

REP. WYATT stated she was concerned about why we would want to protect possession of property whether it unlawful or not and that the penalty seemed to be extreme for taking a photograph.

John MacMaster stated if a person possess property, unlawful or not, you are an owner. The person who owns the property has a higher right to protection than the person who might be posing a threat to their property.

REP. GOULD stated it is very difficult to put a price tag on an animal. This is a good bill and should be passed.

REP. NELSON stated the section regarding taking photographs would be done in trespassing. The research done by these facilities is necessary and is done in the most humane way possible. This is why that portion is included and I think it should be left where it is.

Motion: REP. BOHARSKI moved to amend HB 120. EXHIBIT 8 Motion carried.

Motion: REP. BOHARSKI MOVED HB 120 DO PASS AS AMENDED.

Discussion:

REP. MEASURE stated this bill is poorly thought out and researched and if they really want to promote this bill they should act within the law we already have. This is a bad piece of legislation and we should get rid of it.

Motion: REP. BROWN moved to amend HB 120 by raising the penalty fine.

Motion/Vote: REP. BOHARSKI made a substitute motion HB 120 be Tabled. Motion failed.

Vote: Motion carried to amend HB 120.

Motion/Vote: REP. BROWN MOVED HB 120 DO PASS AS AMENDED. Motion carried 15 to 5 with Rep's: Toole, Whalen, Russell, Measure and Strizich voting no.

EXECUTIVE ACTION ON HB #132

Motion: REP. BROWN MOVED HB 132 DO PASS.

Discussion:

REP. LEE asked REP. BROWN if there was anything that we could do to change this bill? REP. BROWN said the only way we could change this bill is if we would change the venue statutes as a legislature and if the Governor were to sign it.

REP. TOOLE stated the railroad problem represents a small percentage of cases. This statute is important for a greater majority of other cases.

CHAIRMAN STRIZICH stated if the committee does nothing with this bill the law stands as is. This piece of legislation will not change the law. A new piece of legislation will need to be drafted to cover such things as the Montana Courts paying for all of these out of state suits.

Vote: Motion carried unanimously.

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL DATE 1-16-91

NAME	PRESENT	ABSENT	EXCUSED
REP. VIVIAN BROOKE, VICE-CHAIR	✓		
REP. ARLENE BECKER	✓		
REP. WILLIAM BOHARSKI	✓		
REP. DAVE BROWN	✓		
REP. ROBERT CLARK	✓		
REP. PAULA DARKO	✓		
REP. BUDD GOULD	✓		
REP. ROYAL JOHNSON	✓		
REP. VERNON KELLER	✓		
REP. THOMAS LEE	✓		
REP. BRUCE MEASURE	✓		
REP. CHARLOTTE MESSMORE	✓		
REP. LINDA NELSON	✓		
REP. JIM RICE	✓		
REP. ANGELA RUSSELL	✓		
REP. JESSICA STICKNEY	✓		
REP. HOWARD TOOLE	✓		
REP. TIM WHALEN	✓		
REP. DIANA WYATT	✓		
REP. BILL STRIZICH, CHAIRMAN	✓		

EXHIBIT 1
DATE 1-16-91
HB 120

MONTANA FARM BUREAU FEDERATION
502 South 19th • Bozeman, Montana 59715
Phone: (406) 587-3153

BILL # H.B. 120 ; TESTIMONY BY: Lorna Frank

DATE Jan. 16, 1991 ; SUPPORT Yes ; OPPOSE _____

Farm Bureau feels this piece of legislation is needed in Montana in light of the different animal rights groups that are springing up all over the country.

We believe the bill is board enough to cover fairs, rodeo's, farms, and research facilities, plus veternarian facilities.

HB-120 would make it a misdemenor for unlawful entry into a facility. However, if an individual caused any damage to the facility or released any animals, the violation would be considered a feloney.

The animal rights movement is growing and is well financed. We should take the threat they they pose to animal agriculture, medical research and the fur industry very seriously.

Animal activist groups are opposed to any use of animals or animal products for the health, enjoyment or diet of the American people. They oppose the use of wool and lanolin and to anyone using horses for pleasure or any animal for entertainment.

We must understand that animal welfare is the issue, not animal rights. Montanans have enough common sense to totally reject the goals and methods of radicals in the animal rights movement. We need to protect our heritage and traditions. Mainly, we need to defend our rights and freedom of choice from those who wish to force their values upon us.

Passage of HB-120 would be a step in that direction, we urge this committee to give a do pass recommendation.

SIGNED: Lorna Frank

FARMERS AND RANCHERS UNITED

EXHIBIT 9
DATE 1-16-91
HB 120

PROPOSED AMENDMENT BY LORNA FRANK TO H.B. 120

1. Amend H.B. 120, page 1, line 15, by inserting after the word "agriculture" the words "and its related activities,".

EXHIBIT 3
DATE 1-16-91
HB 120

McLaughlin Research

Institute for Biomedical Sciences

Mr/Madame Chairman and members of the Committee:

My name is Clyde Lee. I represent McLaughlin Research Institute of Biomedical Sciences of Great Falls, Montana. I have been employed for nearly two years as an Assistant Lab Animal Technician. I am one of many responsible for the humane handling and care of over 100 strains of mice. I also help with the record keeping involved with the animal husbandry practices.

McLaughlin Research Institute has many strains of mice that no other research facility has. Many of these strains are sent out to other research facilities across the country where they are used in various research protocols. An extremely large investment in time and money is involved in the development and maintenance of these strains of mice.

Record keeping is a critical part of research. There are many steps involved in even a small portion of an experiment; and these steps must be documented. Therefore, the records kept, as you can imagine, are immense!

There are too many very important records, animals, and equipment that could be damaged, lost or destroyed because of an unlawful entry.

Therefore, we at McLaughlin Research Institute of Biomedical Sciences support this bill that would make it a felony should there be an unlawful entry to any research facility, farm or production facility.

Thank you for your time.

Sincerely,

Clyde Lee

Clyde Lee
McLaughlin Research Institute of Biomedical Sciences
1625 3rd Ave. North
Great Falls, Montana

EXHIBIT 4
DATE 1-16-91
HB 120

TESTIMONY

HOUSE BILL 120

AN ACT CREATING THE FARM ANIMAL AND RESEARCH FACILITIES PROTECTION ACT

WEDNESDAY, JANUARY 16, 1991

HOUSE JUDICIARY COMMITTEE

GOOD MORNING MR. CHAIRMAN AND COMMITTEE MEMBERS. FOR THE RECORD, MY NAME IS LYNN CORNWELL. I AM REPRESENTING THE MONTANA STOCKGROWERS ASSOCIATION, MONTANA WOOLGROWERS ASSOCIATION, AND THE MONTANA ASSOCIATION OF STATE GRAZING DISTRICTS. THESE THREE ORGANIZATIONS REPRESENT LIVESTOCK PRODUCERS ACROSS MONTANA.

ANIMAL WELFARE HAS ALWAYS BEEN IMPORTANT TO LIVESTOCK PRODUCERS AND ORGANIZATIONS THAT REPRESENT THEM. HOWEVER, SOME RADICAL ACTIVISTS ACCUSE LIVESTOCK PRODUCERS OF MISTREATING THEIR ANIMALS UPON WHICH THEY DEPEND FOR THEIR LIVELIHOOD. A SURVEY CONDUCTED BY THE WIRTHLIN GROUP, A LEADING ATTITUDE RESEARCH FIRM, OF 1000 AMERICAN ADULTS SHOWED THAT 68% OF AMERICAN CONSUMERS BELIEVE THAT CATTLE ARE TREATED HUMANELY BECAUSE IT IS IN THE LIVESTOCK INDUSTRY'S BEST INTEREST TO HAVE HEALTHY WELL CARED FOR ANIMALS AND BECAUSE THE LIVESTOCK PRODUCERS DEPEND ON THEIR ANIMALS TO MAKE A LIVING.

YET, THERE ARE THE CASES OF VANDALISM AND ILLEGAL ACTIVITIES OCCURRING WHERE RESEARCH FACILITIES AND ANIMALS ARE HARMED OR DESTROYED. THREE CASES I WOULD LIKE TO IDENTIFY ARE:

Ex. 4
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1) THE DEFACING OF THE OFFICE OF THE CALIFORNIA CATTLEMEN'S ASSOCIATION,

2) THE BURNING OF THE LIVESTOCK AUCTION MARKET IN CALIFORNIA, AND

3) AN ATTACHMENT TO MY TESTIMONY WHICH IS A SPECIAL BULLETIN FROM THE COCONINO COUNTY SHERIFF'S DEPARTMENT IN ARIZONA WARNING CATTLEMEN OF EARTH FIRST'S RECOMMENDATION TO START HUNTING CATTLE AND SHEEP AS A MEANS TO ELIMINATE LIVESTOCK FROM PUBLIC LANDS.

WHILE THESE EXAMPLES ARE FROM STATES OTHER THAN MONTANA, THERE IS NOTHING TO GUARANTEE THIS TYPE OF ACTIVITY COULD NOT HAPPEN HERE.

I WOULD ALSO LIKE TO BRING TO YOUR ATTENTION A BOOK ENTITLED "ECODEFENSE - A FIELD GUIDE TO MONKEY WRENCHING". THIS IS A MANUAL ON HOW TO SPIKE TREES, CUT FENCES, CLOSE ROADS, ETC. ALL DESTRUCTIVE TECHNIQUES WHICH WHEN USED, CAN DESTROY NOT ONLY BUILDINGS, BUT HARM PEOPLE AS WELL.

THE LIVESTOCK INDUSTRY CARES FOR THE WELFARE OF THEIR ANIMALS. WE HAVE TO OR ELSE WE WILL NOT SURVIVE. THERE IS RESEARCH GOING ON USING ANIMALS THAT BENEFITS THE HUMAN RACE. THERE IS RESEARCH

Exhibit 4
1-18-91
HB 120

THAT ALSO HELPS THE ANIMALS THEMSELVES. WE DO NOT NEED ONE MORE ISSUE TO WORRY ABOUT.

HOUSE BILL 120 IS A BILL WHICH MAY GIVE AN INDIVIDUAL SOME STRONG THOUGHT ABOUT DESTROYING PROPERTY IF THEY KNOW THEY WILL BE PUNISHED IF CAUGHT.

I WOULD ASK FOR A DO PASS ON HOUSE BILL 120.

THANK YOU.

Exhibit 7 1-16-91

THE COCONINO COUNTY SHERIFF'S DEPARTMEN
Post Office Box 39 • Flagstaff, Arizona 86002 • (602) 774-4523

Joe Richards
SHERIFF

HB 120

SPECIAL BULLETIN

Attention Cattlemen:

Recent publications from the Earth First newsletter advocate cattle hunting as a means of eliminating cattle grazing on public lands.

In the August 1, 1990 issue of the Earth First newsletter there were articles published recommending hunting cattle and sheep as a means to eliminate livestock from public lands. They indicated that shooting cows and sheep will bring a controversy bringing public attention to the problem. Secondly its one of those things individuals can do to make the world a better place to live.

They recommend using a bow and arrow mainly because it is silent, shotguns can also be use because it is difficult to determine which gun buckshot is fired from. Their choice of weapons however, is a bolt action 30-06 caliber rifle with telescopic site using 180 grain cartridges. They suggest the weapon be purchased second hand thus eliminating records of the purchase.

It is recommend that hunting season is a good time to cow hunt because there are a lot of hunters in the woods, however one should be careful and not get caught. They further recommend that the cow hunter always have a reason to be out in the field wither during hunting season or other times. They also gave tips on the use of camouflage.

The hunter is told not to worry about the meat going to waste because there are plenty of predators that will care for it. Further the cattle should be thought of as one more exotic game animal introduced into the environment. The cattle are easy to hunt, the success rate should be high, and it is a good animal to get your kids or spouse started on.

If you witness this type of activity, call the Sheriff's Department at 774-4523 or toll free 1-800-338-7888.

EXHIBIT 2
DATE 1-16-91
HB 120

McLaughlin Research

Institute for Biomedical Sciences

Mr/ Madame Chairman and Members of the Committee:

My name is Cynthia Miller. I am the Laboratory Animal Technicians supervisor at the McLaughlin Research Institute for Biomedical Science, located in Great Falls.

I will have been employed by the institute three years in May of this year. During this time, I have been responsible for the breeding, production, and maintenance of our research animals-the mice.

Among the numerous strains of mice produced at our institute, we have several specific strains used in the study of Altzheimer's Disease. Unfortunately, there is no animal model that mimics this human disease. We are trying to develop a model to understand the causes of Altzheimer's Disease and aid in its prevention or treatment. It is , therefore, necessary to maintain these animals for their entire life span-up to three years- in order to gather complete data on this disease. These mice, because they carry a specific gene, could lead the way to a cure for one of the most debilitating human diseases known.

We are , also, one of the few facilities that has been granted permission to produce and maintain the rare strain of SCID (Severe Combined Immune Deficient) animals. Their condition can be compared to the condition of the "boy in the bubble". They are invaluable in research because their bodies cannot produce the usual defensive immune response against any foreign substance which may be introduced. They are used in the study of a variety of diseases.

Through an ACS (American Cancer Society) grant, we are able to maintain forty-five strains that were developed by Dr. Jack Stimpfling, at our institute, over the past twenty-three years. These

EXHIBIT 2
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HB 120

mice are used in the study of tissue transplantation and the acceptance or rejection of these tissues.

Four congenic strains have been developed and are maintained at our facility. Each of these strains carries a specific gene-the prion gene- which is needed to study the animal neurological disease, Scrapie. This is currently the best animal model for the neurodegeneration of Altzheimer's Disease. Because this is the animal equivalent of the human Creutzfeldt Jakob Disease, these mice also provide the opportunity to find the cause and possible cure of another, very devastating, and fatal disease. Recently, a scrapie-like disease called "Mad Cow Disease", has been identified in Great Britain and has had a devastating effect on their beef and dairy industries.

I have spoken of four areas of research that are conducted at our institute, and the mice used for this research. The Altzheimer's mice, the Scrapie congenic mice and the ACS supported mice are irreplaceable. We are the only facility which produces and maintains these particular animals. The development of each of these special strains involved at least three years of breeding control, testing, and maintenance before the research could be started. The valuable man-hours, research data, and the animals themselves, could not be reproduced! I'm certain that this situation can be found, involving other species, at other facilities.

In addition to the loss of irreplaceable research projects, I'd like to make the point that , while research animals are domesticated, cared-for animals, they are research animals! It is possible that these animals could be carrying pathogens which could endanger human life and/or other animal life, if set free into the wild.

We, at the McLaughlin Research Institute, support this bill which would make the criminal acts of breaking and entering, destroying equipment,computers,and research data, and freing the animals, a felony offence. These are not only criminal acts against the laboratory, farm, or research institute that is targeted and destroyed, but criminal acts against the people suffering from disease, who have their hopes for a better life and a possible cure destroyed as well. Thank you for your time and interest.

Sincerely yours,

Cynthia L. Miller

Cynthia L. Miller

McLaughlin Research Institute for Biomedical Sciences

EXHIBIT 6
DATE 1-16-91
HB 120

HB 120
SUPPORT - we also support the Farm Bureau's amendment
JAN. 16, 1991

Ranchers' Rights

by Bob Kingsbery

I. Ranchers have the right to care for their animals 24 hours a day, seven days a week, 52 weeks a year, for the rest of their lives - without salary, overtime pay, pension plan, two-week vacations, medical insurance, retirement at 65, or any guarantee they will make a living from one year to the next.

II. Ranchers have the right to spend all their money, including life savings, Christmas and vacation money, to feed their animals during droughts and bad winters. When they run out of money, they have the right to borrow more, regardless of the interest rate.

III. Ranchers have the right to be kicked, stomped, knocked down, exhausted, frustrated, and impoverished by their animals, without retaliating in any way, except cussing - softly, so they don't upset their animals.

IV. Ranchers have the right to treat their animals for every minor injury and illness while ignoring their own bruises, sprains, swelling, cuts, scrapes and loose teeth acquired while caring for their animals.

V. Ranchers have the right to cancel family outings, vacations, anniversaries, and birthday parties, at a moment's notice, in order to solve some last-minute ranch crisis.

VI. Ranchers have the right to put the health and well-being of their animals above everything else, including their own health, wealth and well-being, while still taking time to worry about the real problems of the world: poverty, hunger, war, crime and fanatics.

VII. Ranchers have the right to make sure their animals are fed and watered 24 hours a day - no matter how hot, cold, wet or miserable the weather - before they get to eat or sleep themselves.

IX. Ranchers have the right to the special satisfaction that comes from providing a valuabl. service to society and devoting their lives to caring for their land and livestock.

X. Ranchers have the right to ranch. And for every uninformed animal-rights kook, a thousand people would love to have that right.

Carol Mosher
Mt. Cattle Women

VISITORS' REGISTER

House Judiciary COMMITTEE

BILL NO. HB # 120 DATE 1-16-91

SPONSOR Rep. Hayne

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Les Graham	mt. Dept. of Livestock Helena	✓	
Kim Enkerud	MT Stockgrowers MT Assn. of MT Wool Growers, State Grazing Dist	✓	
David Toppen	MT Univ. System	✓	
Lorna Frank	Farm Bureau	✓	
Carol Mosher	Mt. Cattle Women	✓	
Marvin Barber	agriculture Grass assn.	✓	
Clyde Lee	McLaughlin Research Inst.	✓	
Cynthia Miller	McLaughlin Research Institute	✓	
Roger Tippy	Mt. Veterinary Medicine Assn.	✓	
Larry Grimes	Rep. H 30		
Kay Rosenberg	WIFE	✓	
Bill Bogert	Northern Plains Assn	✓	
Lynn Cornwell	MSGA	✓	
Jim Tillotson	MSGA	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HOUSE STANDING COMMITTEE REPORT

January 16, 1991

Mr. Speaker: We, the committee on Judiciary report that House Bill 120 (first reading copy -- white) do pass as amended .

Signed: _____
Bill Strizich, Chairman

And, that such amendments read:

1. Page 1, line 15.
Following: "agriculture"
Insert: "and its related activities"

2. Page 5, line 25.
Strike: "5"
Insert: "20"

CHAIRMAN--GREG JERGESON
NORMAL SCHEDULE==> SITE: RM 413/415 DAYS: M,W,F TIME: 3:00 P.M.

SECRETARY-DOROTHY QUINN

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES----------	COMMITTEE ACTION----------	REREFERRED TO COMM----	DATE OUT-
HB0066	1/17	1/23		CONCUR		1/23
BARNETT, JOE			REVISE BEE INSPECTION PROCEDURES AND DEFINITIONS			
HB0090	2/20	3/06		CONCUR		3/07
COBB, JOHN			REVISE THE MONTANA AGRICULTURAL LOAN AUTHORITY ACT			
HB0120	1/25	2/11		CONCUR AS AMENDED		3/07
HAYNE, HARRIET			CREATE FARM ANIMAL AND RESEARCH FACILITY PROTECTION ACT			
HB0171	1/25	2/06		CONCUR		2/07
BENEDICT, STEVE			DALY DITCH WATER PROJECT REPEAL			
HB0207	1/25	2/08		CONCUR		2/14
BARNETT, JOE			ELIMINATING DEPOSIT REQUIREMENT TO OBTAIN HEARING ON STATE LEASE RATE			
HB0537	2/20	3/06		CONCUR AS AMENDED		3/07
HARPER, HAL			CREATE DROUGHT ADVISORY COMMITTEE			
HB0549	2/27	3/11		CONCUR AS AMENDED		3/12
GRADY, ED			GENERALLY REVISE THE COUNTY NOXIOUS WEED CONTROL LAWS			
HB0574	3/11	3/18		TABLED ON 03/28		
THOFT, BOB			REQUIRE REGISTRATION OF SITES RELATED TO INSECTS & PLANT PATHOGENS			
HB0622	2/20	3/06		CONCUR		3/07
SWYSGOOD, CHARLES			ELIMINATE AGRICULTURAL BUSINESS INCUBATOR PROGRAM			
HB0674	2/25	3/06		CONCUR		3/12
COBB, JOHN			REQUIRE LABELING OF CHICKEN AND TURKEY WHEN WATER ABSORBED IN PROCESSING			
HB0682	2/25	3/08		CONCUR		3/09
DEBRUYCKER, JANE			REPEAL SECTION 5, CHAPTER 446, LAWS OF 1989			

HOUSE BILL NO. 120

INTRODUCED BY HAYNE, STEPPLER, KELLER, ELLISON, COBB, ZOOK, SWYSGOOD, PETERSON, CODY, HANSON, GRINDE

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE FARM ANIMAL AND RESEARCH FACILITIES PROTECTION ACT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** Short title. [Sections 1 through 5] may be cited as the "Farm Animal and Research Facilities Protection Act".

NEW SECTION. **Section 2.** Definitions. As used in [sections 1 through 5], the following definitions apply:

(1) "Animal" means any warmblooded or coldblooded animal used in food, fur, or fiber production, agriculture AND ITS RELATED ACTIVITIES, research, testing, or education. The term includes but is not limited to dogs, cats, poultry, fish, and invertebrates.

(2) "Animal facility" includes a vehicle, building, structure, research facility, or premises where an animal is kept, handled, housed, exhibited, bred, or offered for sale.

(3) "Consent" means agreement in fact, whether express or apparent.

(4) "Deprive" means to:

(a) withhold an animal or other property from the owner permanently or for such a period of time that a major portion of the value or enjoyment of the animal or property is lost to the owner;

(b) restore the animal or other property only upon payment of reward or other compensation; or

(c) dispose of an animal or other property in a manner that makes recovery of the animal or property by the owner unlikely.

(5) "Effective consent" means consent by the owner or by a person legally authorized to act for the owner. Consent is not effective if it is:

(a) induced by force or threat;

(b) given by a person that the offender knows is not legally authorized to act for the owner; or

(c) given by a person who by reason of youth, mental disease or defect, or being under the influence of drugs or alcohol is known by the offender to be unable to make reasonable decisions.

(6) "Notice" means:

(a) oral or written communication by the owner or someone with apparent authority to act for the owner;

(b) fencing or other enclosure obviously designed to exclude intruders or to contain animals; or

(c) a sign or signs posted on the property or at the

THIRD READING

entrance to a building that are reasonably likely to come to the attention of intruders and that indicate that entry is forbidden.

(7) "Owner" means a person who has:

(a) title to the property;

(b) possession of the property, whether lawful or not; or

(c) a greater right to possession of the property than the person alleged to have committed the unlawful act.

(8) "Person" means an individual, state agency, corporation, association, nonprofit corporation, joint-stock company, firm, trust, partnership; two or more persons having a joint or common interest; or some other legal entity.

(9) "Possession" means actual care, custody, control, or management.

(10) "Research facility" means a place, laboratory, institution, medical care facility, elementary school, high school, college, or university at which a scientific test, experiment, or investigation involving the use of a living animal is carried out, conducted, or attempted.

NEW SECTION. **Section 3. Unlawful acts.** (1) A person who does not have the effective consent of the owner may not acquire or otherwise exercise control over an animal facility, an animal from an animal facility, or other

property from an animal facility with the intent to deprive the owner of the facility, animal, or property or to damage the enterprise conducted at the animal facility.

(2) A person who does not have the effective consent of the owner and who intends to damage the enterprise conducted at an animal facility may not:

(a) damage or destroy an animal facility or an animal or property in or on the premises of an animal facility;

(b) enter an animal facility that is at the time closed to the public with the intent to commit an act prohibited by [sections 1 through 5];

(c) remain concealed in an animal facility with the intent to commit an act prohibited by [sections 1 through 5];

(d) enter an animal facility and commit or attempt to commit an act prohibited by [sections 1 through 5];

(e) enter an animal facility to take pictures by photograph, video camera, or other means; or

(f) enter or remain on the premises of an animal facility if the person:

(i) had notice that the entry was forbidden; or

(ii) received notice to depart but failed to do so.

(3) The provisions of [sections 1 through 5] do not apply to lawful activities of a government agency or its employees who are carrying out their duties under law.

NEW SECTION. **Section 4.** Action for damage. (1) A person who has been damaged by reason of a violation of [section 3] may bring against the person who caused the damage an action in the district court to recover:

(a) an amount equal to three times all actual and consequential damages; and

(b) court costs and reasonable attorney fees.

(2) [Sections 1 through 5] may not be construed to affect any other rights of a person who has been damaged by reason of a violation of [sections 1 through 5]. The provisions of subsection (1) may not be construed to limit the exercise of any rights arising out of or relating to a violation of [section 3].

NEW SECTION. **Section 5.** Penalty. (1) A person convicted of violating [section 3(2)(f)] shall be fined not less than $50 or more than $500 or be imprisoned in the county jail for a term not to exceed 3 months, or both.

(2) A person convicted of an act that violates [section 3(1) and (2)(a) through (2)(e)] and that results in $500 or less in damage or destruction shall be fined not more than $500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(3) A person convicted of an act that violates [section 3(1) and (2)(a) through (2)(e)] and that results in more than $500 in damage or destruction shall be fined not more

than $50,000 or be imprisoned in the state prison for a term not to exceed 5 20 years, or both.

NEW SECTION. **Section 6.** Effective date. [This act] is effective on passage and approval.

-End-

MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION

Call to Order: By Senator Greg Jergeson, on February 11, 1991, at 3:00 P.M.

ROLL CALL

Members Present:

Greg Jergeson, Chairman (D)
Francis Koehnke, Vice Chairman (D)
Gary Aklestad (R)
Thomas Beck (R)
Gerry Devlin (R)
Jack Rea (D)
Bernie Swift (R)
Bob Williams (D)

Members Excused:

Betty Bruski (D)

Staff Present: Doug Sternberg (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion:

Chairman Jergeson announced that he would turn the Chair over to Vice Chairman Koehnke in order that Senator Jergeson might present a bill in another committee.

HEARING ON HOUSE JOINT RESOLUTION 6

Presentation and Opening Statement by Sponsor:

Representative Howard Toole, District 60, stated he is presenting HJR 6 which is a resolution that is directed at the Department of Natural Resources urging the Department to solicit applications for the water development and renewable resource development grants for the demonstration of environmentally sound agricultural practices and projects that are intended to improve and increase environmentally sound agricultural chemical practices. It also directs Montana State University to pursue funding for programs and projects both for research and demonstration in this area. He advised that House Bill 240 will also come before this committee. It is a bill that authorizes grants from the Water Development Special Revenue Account for

these kinds of projects. HB 240 opens up that account to these kinds of projects.

Proponents' Testimony:

AL KURKI, Director of the Alternative Energy Resources Organization (AERO), stated his organization is comprised of 500 members, most of whom are in Montana and half of whom are Montana farmers and ranchers. He pointed out that the resolution calls for both research and demonstration components. They are particularly supportive of its emphasis on demonstration projects because it can test particular practices on a certain farm or community. He read and presented his written testimony to the Committee, and urged support and passage of this resolution (Exhibit #1).

Opponents' Testimony:

None.

Questions From Committee Members:

None.

Closing By Sponsor:

Representative Toole stated in view of no opposition, he would close without further comment.

HEARING ON HOUSE BILL 120

Presentation and Opening Statement by Sponsor:

Representative Harriet Hayne, House District 10, stated she is presenting HB 120 which bill creates the Farm Animal and Research Facility Protection Act. She stated quite often the newspapers tell of certain groups and individuals in our society that have committed individual and group acts including vandalism against livestock operators and against scientific facilities because they say they are concerned about the amount of cruelty that they believe is involved in raising animals in confinement. She stated that most people agree that animals should not be mistreated, but by the same token animals cannot be treated as if they are human beings. According to Ms. Hayne, no element in our society is more compassionate to livestock, poultry and fur bearing animals than are the producers and individuals who work with animals that are in confinement. The medical advances which the medical and veterinary professions have made are due in part to using animals for research. This bill also applies to research facilities used in the medical and veterinary fields. HB 120 is patterned after HR 3270 introduced by the U. S. Representative from Texas, in the 101st Congress, and was co-

signed by 240 other Congressmen. With the budget crunch in the last session of Congress, the bill was put on hold but will be re-introduced this session. This and similar legislation has been passed in Arizona, Georgia, Kansas, Idaho and several other states. She believes Montana should join with other states and the federal government to prevent and penalize crimes against farmers, ranchers and the agricultural and bio-medical research facilities. She informed an amendment on page 6 changes the imprisonment term from 20 to 10 years. She introduced Les Graham, Department of Livestock, who presented a video presentation.

Proponents' Testimony:

LES GRAHAM, Department of Livestock, stated their Department is interested in HB 120 because they have a diagnostic laboratory; they are in charge of predator control; they have an animal health section; and meat, milk and egg inspection. All of these programs are suspect in the eyes of some animal activist groups around the country. The Department of Livestock has been concerned, and for the past six years Mr. Graham has been active in doing research as to what is going on nationally. He stated they have copies in their office of printed materials put out by various organizations such as how to shoot livestock grazing on public land, and a bulletin in the form of a training bulletin on how to conduct a surveillance and eventually bomb a research lab. He stated they do not believe any piece of legislation should hinder a law-abiding group. He stated they are state law officers, and they work with humane societies around the state. Their intent of support of HB 120 is not to restrict or inhibit their activities. He believes that the trend of what is going on nationally makes this piece of legislation well in order. He explained that the film is not done by actors, but is actual footage and illustrates the activities of the Animal Liberation Front, an activist group. He presented the film for the committee's information.

LORNA FRANK, representing the Montana Farm Bureau, stated she would like to go through the various sections of HB 120 in order to explain some of the reasons they are in support of this bill. Page 1, Section 2, line 17 - She stated the new wording was added to better cover rodeos, horse shows, 4-H fairs, and other agriculture related activities; Section 2 also identifies "animal facilities" which would include vehicle, building, research facility or premise where an animal is kept housed, exhibited, bred or offered for sale. This would include livestock auctions. Section 3, page 3, mentions unlawful acts to an animal facility. This would include taking pictures with a camera or a video camera, the reason being that pictures can be altered and changed to depict whatever someone wants you to believe. Section 3, lines 23-25 exempts lawful activities or government agencies carrying out their duties. She believes this would also exempt the humane society and would not hamper them from investigating any cruelty to animal cases. Section 4, page

5, says that a person can bring action in District Court to recover three times the amount of actual and consequential damages plus court costs and attorney fees. This applies when a person is found guilty of doing damage to any facility. Section 5 is the penalty section wherein it says that a person convicted of entering a facility without consent and remaining on the premises even though they had notice that entry was forbidden or were told to leave but did not, could receive a fine of not less than $50 or more than $500, or be imprisoned in the county jail for up to three months. This follows the criminal mischief and the criminal trespass language currently in statutes 46-6-101 and 45-6-203, MCA, and is considered a misdemeanor. Section 5, subsection 2, says that if a person is convicted of entering a facility without consent after closing time and remains concealed with intent to remove an animal, do damage, take pictures, or destroy a facility that results in damage or destruction of $500 or less, they shall be fined not more than $500 or imprisoned in the county jail no longer than 6 months. This also follows the current language in Montana codes. Section 5, subsection 3, page 5, says that if a person is convicted of entering a facility during closing time, remains concealed with intent to remove an animal, do damage, take pictures, or does damage of $500 or more, that individual shall be fined not more than $50,000 or imprisoned in state prison for not more than 10 years. This follows the current language in 45-6301, MCA. She also stated that she wished to call attention to the criminal mischief sections in which there is mention of commonly domesticated hoofed animals. She informed this is in the bill because of the rustling that has occurred in Montana. There is no mention in the current codes of research facility or facility animals or where they are housed. Her group feels that by passing HB 120 the state of Montana will be sending a message to animal terrorist groups that they are not welcome in the state, and if they are caught breaking the laws, they will be prosecuted. It is their belief the bill will give prosecutors more definitive language and another option in prosecuting such cases. She furnished copies of the criminal codes which she referred to in her testimony (Exhibit #2).

KEITH BALES, representing the Montana Stock Growers Association, Montana Wool Growers Association and Montana Association of State Grazing Districts, stated these three organizations represent livestock producers across Montana. He read and presented written testimony to members of the Committee (Exhibit #3). He asked for concurrence on HB 120.

CAROL MOSHER, Montana Cattle Women, advised that she is also representing Ted Doney for the Montana Dairymen, and they support HB 120. She passed out copies of her testimony (Exhibit #4), and stated she would defer her testimony time to two young people who had traveled a good distance to testify.

JODI JONES, 4-H member, stated she is in support of HB 120, and urged a do pass recommendation by the committee. She read

and presented her written testimony describing an incident at a county fair where 4-H members were confronted by an animal rights activist (Exhibit #5).

CINDY BENSON, 4-H member, also told of her experience of being confronted by animal rights activists at the Beaverhead County Fair. She submitted her written testimony to the committee (Exhibit #6).

KAY NORENBERG, representing Wives Involved in Farm Economics, stated they wished to go on record in support of HB 120.

ROGER TIPPY, lobbyist for the Montana Veterinary Medicine Association, advised that the MVMA reviewed this bill at their mid-winter convention in January and found that although they had some questions of the operation and effect of the language of this bill, they were comfortable with it and in support of the objectives of it. This bill does not duplicate what is in the criminal code because it provides treble damages in civil actions in addition to supplementing the criminal code, and the definition of "value" in the criminal code 45-2-101 is what drives the criminal mischief and the criminal trespass in terms of crime. "Value" under that code reference is defined as the replacement cost or the market value of the property. This bill adds the loss of "data" in addition to what current law provides.

DR. WARREN FROST, Director of Animal Resources at Montana State University, supplied written testimony which he wished to be included in the hearing in support of HB 120. Lorna Frank presented copies of his testimony to the committee members (Exhibit #7).

CHARLES BROOKS, Montana Hardware Implement Association, stated that group is deeply concerned about this issue as it affects their industry. He stated his son is a medical researcher, and they believe it is necessary to use animals rather than humans for research in order to address the many diseases that we are faced with today. It is his opinion the state of Montana needs the protection this bill affords.

Since no further proponents expressed a desire to testify, Chairman Jergeson asked those in favor of HB 120 to stand and be recognized. A large group responded.

<u>Opponents' Testimony:</u>

TIM SWEENEY, President of the Lewis and Clark Humane Society and a licensed member of the State Bar of Montana, stated he is also a horseman, and wished to express the opposition of the L & C Humane Society to HB 120. He read and presented his written testimony to members of the committee (Exhibit #8).

BARBARA DAHLGREN, President of the Federated Humane

Societies of Montana, advised that their Federation consists of a conglomerate of eleven Montana humane organizations. Montana laws governing the care of animals provide that animals must be provided with proper food, water and shelter. She believes when violations of any of these laws are reported to the humane societies, those allegations should be investigated. Since their organizations are legal, and not tax-supported corporations, their interest lies in the proper humane treatment of animals. She does not believe that any of their organizations poses a threat to an animal facility, vehicle, building, etc. They realize there must be experimentation on animals, but they also feel that those animals being used deserve the most humane treatment that can be administered. She stated the most frustrating case she has ever been involved with was the beaver farm situation at Stevensville. She provided written testimony which was a chronology of the happenings in that incident (Exhibit #9).

ROBERT MICKEN, Supervisor of the Missoula City/County Animal Control, expressed his concerns with HB 120 through a letter which he asked Ms. Dahlgren to distribute to the committee (Exhibit #10).

MICHELLE FRODEY-HUTCHINS, Education Coordinator for the Missoula Humane Society, advised that in addition to reading a statement, she also wished to point out that Section 3, page 4, lines 2-3, defines activities as ones that would "damage the enterprise" conducted at the animal facility. She said this indicates not damage to a physical structure, but rather damaging an enterprise, which may or may not be legal. She believes the wording opens the door to problems that would largely affect organizations such as humane societies. She also believes the intent of the bill is to send a message to animal rights terrorists. She did not believe anyone in the room would condone activities as shown in the video. It is her opinion that the way the bill is written will impede the activities of community animal welfare organizations. She believes there is a dichotomy between what the proponents say they want to accomplish and what the bill actually says. Her prepared testimony, which she read to the committee, expressed the views of the Missoula Humane Society (Exhibit #11).

KATHY JONES, stated she is a livestock owner, and added she is not an animal rights activist. She voiced her opposition to HB 120 and read a prepared statement to the committee (Exhibit #12).

CAROL REITER, Vice-President of the Lewis and Clark Humane Society Board of Directors, advised that she believes the public expects the Humane Society to act on animal cruelty cases. She stated this is being done successfully, and believes that HB 120 could impede legitimate animal cruelty investigation. She read and submitted her written testimony (Exhibit #13).

JUDITH FENTON, Secretary/Treasurer of the Federated Humane Societies of Montana, stated she is opposed to HB 120 for many reasons, which she set forth in written testimony and read to the committee (Exhibit #14). She concluded by requesting that if the committee did give a favorable recommendation to the bill, an amendment be considered that would exempt legitimate humane societies from the provisions of this bill

Chairman Jergeson advised that the allotted time had run out, and he requested additional opponents to stand to show their opposition to HB 120. A large number responded.

In addition to those testifying, the following opponents submitted written testimony in opposition to HB 120:

DR. JULIE A. KAPPES, Helena Veterinary Service, Helena (Exhibit #15)
JENIFER WISE, Basin (Exhibit #16)
NELL HOLTZCLAW, Butte (Exhibit #17)
MARC PASSMANN, Missoula (Exhibit #18)
MOLLY BAER KRAMER, Missoula (Exhibit #19)

Questions From Committee Members:

Senator Williams asked if the members of the humane societies who spoke in opposition were speaking for the organizations or themselves. Tim Sweeney advised that he spoke on behalf of the Lewis & Clark Humane Society, and communication had been made with all the directors and they all oppose HB 120.

Sen Devlin asked if the humane society representative needed a law enforcement person present before they entered private property. Mr. Sweeney said the courts hold them to the standards of a government agency or search and seizure rule. They do get warrants before they go on properties, and sometimes they get permission from the owners. He added they are a Montana corporation and do not hold any kind of government status, and the bill would not protect their representatives. He believes it would pose a threat to their organizations.

Senator Williams asked what would be the requirements or what groups would one go through to start up a humane society. Mr. Sweeney responded there is no license requirement; however, their society gets funding from various government entities. All their workers are volunteers, but are not specifically sanctioned under law.

Senator Beck asked if the societies are not sanctioned under law, are they violating the law at the present time. Mr. Sweeney stated they are not violating it at the present time, but would be under HB 120. Senator Beck asked is not the county attorney, or other government representative, taking the full legal

responsibility for their actions. He believes there is nothing in HB 120 that would not allow them to continue. Mr. Sweeney disagreed, stating that what if it is not a government official that brings them the animal as in the case of an individual finding an animal on the roadway and bringing it into the shelter. There is no government connection there. There is a good possibility they could be liable for holding that animal. He added that maybe some clarification is needed, and they are not against the intent of the bill as much as the form. It is his opinion the law is ambiguous as to where the humane societies stand.

In response to a question by Senator Williams, Representative Hayne stated that there was no opposition to the bill at the House hearing other than the penalty being lowered to 10 years.

Senator Jergeson stated in regard to the penalty on page 6, he noted the original language stated 5 years. He asked how the 10 year penalty was decided upon. She said she understood it was facetiously put in at 20 years, and later reduced to 10 years. Senator Jergeson asked if he was correct in the assumption that this bill was not directed at the activities of organizations such as the humane society. She stated that was correct, and added that if the humane societies do not agree with this, they should put in their own bill correcting their situation.

Senator Jergeson provided two examples of taking pictures of animals that might be in violation of this bill. Les Graham advised that as law enforcement officers for the State Livestock Department they investigate hundreds of similar cases each year, and they have also been involved in satanic cult investigations. It was his belief that most photographs that are used come from investigative files of law enforcement officers. It is their position that if a citizen is driving down the road and observes a violation, it would be his duty to turn it over to law enforcement officers and let them take the legal means of entering via a search warrant and/or permission from the owner.

Senator Aklestad asked why there is no statute number referred to in the whole bill. Doug Sternberg, legal counsel, informed that this implements a set of penalty provisions that is beyond the present scope of the trespass laws. There is a codification suggestion as to where it would be placed.

Mr. Graham stated he wished to add that the most difficult cases to get prosecution on are cruelty to animal cases.

Senator Koehnke asked Mr. Graham if he felt this bill would solve the problem. Mr. Graham stated he believed it would help.

Senator Beck said it is his observation that the humane societies have a little problem with their authority. He requested if Doug Sternberg could do some research in order to

help that problem, but he would also like to see HB 120 go out in order to address the other problems. Mr. Sternberg indicated that would be possible.

Senator Williams asked whether the Missoula Humane Society was associated with any government agency or under the jurisdiction of the county. Michelle Frodey-Hutchins advised the Missoula County Animal Control is a government agency. The Missoula Humane Society is not a government agency and is not funded by, nor do they have any connection with, the government.

Tim Sweeney indicated that they would be willing to help sort the problems out, and keep the character of the bill the same.

Senator Jergeson pointed out that the discussion seems to be working around the idea the humane society is a legitimate organization and their efforts should be continued. He asked if there is anything in this bill that would prevent the terrorist groups from continuing to publish their philosophy of doing these things that are objected to. Lorna Frank stated she believed they could not be stopped.

Senator Aklestad stated that through the discussion it seemed there is the possibility of helping the humane society and still not encompass the terrorist organizations. Senator Beck requested Doug Sternberg to study the bill further to see if the bill actually covers the concerns and intent.

ADJOURNMENT

Adjournment At: 4:55 P.M.

Greg Jergeson
GREG JERGESON, Chairman

Dorothy Quinn
DOROTHY QUINN, Secretary

GJ/dq

ROLL CALL

AGRICULTURE COMMITTEE

DATE 2/11/91

52nd LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. JERGESON	X		
SEN. KOEHNKE	X		
SEN. AKLESTAD	X		
SEN. BECK	X		
SEN. BRUSKI			X
SEN. DEVLIN	X		
SEN. REA	X		
SEN. SWIFT	X		
SEN. WILLIAMS	X		

Each day attach to minutes.

SENATE AGRICULTURE
EXHIBIT NO. 4g
DATE 2/11/91
BILL NO. HB 120

45-6-309. Failure to return rented or leased personal property.
45-6-310. Definition — computer use.
45-6-311. Unlawful use of a computer.
45-6-312. Unauthorized acquisition or transfer of food stamps.
45-6-313 reserved.
45-6-314. Theft by disposal of stolen property.
45-6-315. Defrauding creditors.
45-6-316. Issuing a bad check.
45-6-317. Deceptive practices.
45-6-318. Deceptive business practices.
45-6-319. Chain distributor schemes.
45-6-320 through 45-6-324 reserved.
45-6-325. Forgery.
45-6-326. Obscuring the identity of a machine.
45-6-327. Illegal branding or altering or obscuring a brand.

Part 1

Criminal Mischief and Arson

45-6-101. Criminal mischief. (1) A person commits the offense of criminal mischief if he knowingly or purposely:

(a) injures, damages, or destroys any property of another or public property without consent;

(b) without consent tampers with property of another or public property so as to endanger or interfere with persons or property or its use;

(c) damages or destroys property with the purpose to defraud an insurer; or

(d) fails to close a gate previously unopened which he has opened, leading in or out of any enclosed premises. This does not apply to gates located in cities or towns.

(2) A person convicted of criminal mischief shall be ordered to make restitution in an amount and manner to be set by the court. The court shall determine the manner and amount of restitution after full consideration of the convicted person's ability to pay the same. Upon good cause shown by the convicted person, the court may modify any previous order specifying the amount and manner of restitution. Full payment of the amount of restitution ordered shall be made prior to the release of state jurisdiction over the person convicted.

(3) A person convicted of the offense of criminal mischief shall be fined not to exceed $500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the offender commits the offense of criminal mischief and causes pecuniary loss in excess of $300, injures or kills a commonly domesticated hoofed animal, or causes a substantial interruption or impairment of public communication, transportation, supply of water, gas, or power, or other public services, he shall be fined an amount not to exceed $50,000 or be imprisoned in the state prison for any term not to exceed 10 years, or both.

(4) Amounts involved in criminal mischiefs committed pursuant to a common scheme or the same transaction, whether against the public or the same person or several persons, may be aggregated in determining pecuniary loss.

History: En. 94-6-102 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 1, Ch. 88, L. 1975; R.C.M. 1947, 94-6-102; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 3, Ch. 560, L. 1981; amd. Sec. 1, Ch. 581, L. 1983; amd. Sec. 1, Ch. 98, L. 1989.

Compiler's Comments

1989 *Amendment:* Inserted (4) relating to aggregation of amounts in determining pecuniary loss.

Cross-References

Injury to election equipment, materials, and records, 13-35-206.

Injury to property associated with funeral or interment, 35-21-704.

Definition of "knowingly", 45-2-101.

Definition of "property", 45-2-101.

Definition of "property of another", 45-2-101.

Definition of "purposely", 45-2-101.

Definition of "tamper", 45-2-101.

Definition of "value", 45-2-101.

Injury to water distribution system in irrigation district, 85-7-1924.

Duty of state conservation officers to enforce — where, 87-1-504.

Disturbance or theft of traps or trapped animals, 87-3-507.

45-6-102. Negligent arson. (1) A person commits the offense of negligent arson if he purposely or knowingly starts a fire or causes an explosion, whether on his own property or property of another, and thereby negligently:

(a) places another person in danger of death or bodily injury, including a firefighter responding to or at the scene of a fire or explosion; or

(b) places property of another in danger of damage or destruction.

(2) A person convicted of the offense of negligent arson shall be fined not to exceed $500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the offender places another person in danger of death or bodily injury, he shall be fined not to exceed $50,000 or be imprisoned in the state prison for any term not to exceed 10 years, or both.

History: En. 94-6-103 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-6-103; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 1, Ch. 590, L. 1985.

Cross-References

Definition of "bodily injury", 45-2-101.

Definition of "knowingly", 45-2-101.

Definition of "property", 45-2-101.

Definition of "property of another", 45-2-101.

Definition of "purposely", 45-2-101.

Penalty for setting or leaving fire causing damage, 50-63-102.

Failure to extinguish campfire, 76-13-123.

45-6-103. Arson. (1) A person commits the offense of arson when, by means of fire or explosives, he knowingly or purposely:

(a) damages or destroys an occupied structure which is property of another without consent; or

(b) places another person in danger of death or bodily injury, including a firefighter responding to or at the scene of a fire or explosion.

(2) A person convicted of the offense of arson shall be imprisoned in the state prison for any term not to exceed 20 years or be fined an amount not to exceed $50,000, or both.

History: En. 94-6-104 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 1, Ch. 261, L. 1975; R.C.M. 1947, 94-6-104; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 2, Ch. 590, L. 1985.

Cross-References

Definition of "bodily injury", 45-2-101.

Definition of "knowingly", 45-2-101.

Definition of "occupied structure", 45-2-101.

Definition of "purposely", 45-2-101.

Causal relationship between conduct and result, 45-2-201.

Definition of "without consent", 45-5-501.

Release of arsonist — notification of Department of Justice, 53-1-104.

Part 2

Criminal Trespass and Burglary

45-6-201. Definition of "enter or remain unlawfully". (1) A person enters or remains unlawfully in or upon any vehicle, occupied structure, or premises when he is not licensed, invited, or otherwise privileged to do so. Privilege to enter or remain upon land is extended either by the explicit permission of the landowner or other authorized person or by the failure of the landowner or other authorized person to post notice denying entry onto private land. Such privilege may be revoked at any time by personal communication of notice by the landowner or other authorized person to the entering person.

(2) To be effective under this section, the notice provided for in subsection (1) must satisfy the following requirements:

(a) notice must be placed on a post, structure, or natural object by marking it with written notice or with not less than 50 square inches of fluorescent orange paint, except that when metal fenceposts are used, the entire post must be painted; and

(b) the notice described in subsection (2)(a) must be placed at each outer gate and normal point of access to the property, including both sides of a water body crossing the property wherever the water body intersects an outer boundary line.

(3) If property has been posted in substantial compliance with subsection (2), it is considered closed to public access unless explicit permission to enter is given by the landowner or his authorized agent.

(4) The department of fish, wildlife, and parks shall attempt to educate and inform all persons holding hunting, fishing, or trapping licenses or permits by including on any publication concerning such licenses or permits, in condensed form, the provisions of this section concerning entry on private land. The department shall use public media, as well as its own publications, in attempting to educate and inform other recreational users of the provisions of this section.

(5) For purposes of this section, "land" means land as defined in 70-15-102.

(6) In no event shall civil liability be imposed upon the owner or occupier of premises by reason of any privilege created by this section.

History: En. 94-6-201 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 21, Ch. 359, L. 1977; R.C.M. 1947, 94-6-201; amd. Sec. 1, Ch. 599, L. 1985.

Cross-References

Definition of "knowingly", 45-2-101.
Definition of "occupied structure", 45-2-101.
Definition of "premises", 45-2-101.
Definition of "purposely", 45-2-101.
Definition of "vehicle", 45-2-101.

45-6-202. Criminal trespass to vehicles. (1) A person commits the offense of criminal trespass to vehicles when he purposely or knowingly and without authority enters any vehicle or any part thereof.

(2) A person convicted of the offense of criminal trespass to vehicles shall be fined not to exceed $500 or be imprisoned in the county jail for any term not to exceed 6 months, or both.

History: En. 94-6-202 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-6-202.

Cross-References
Definition of "knowingly", 45-2-101.
Definition of "purposely", 45-2-101.
Definition of "vehicle", 45-2-101.
Criminal mischief, 45-6-101.
Theft, 45-6-301.
Unauthorized use of motor vehicles, 45-6-308.

45-6-203. Criminal trespass to property. (1) A person commits the offense of criminal trespass to property if he knowingly:

(a) enters or remains unlawfully in an occupied structure; or

(b) enters or remains unlawfully in or upon the premises of another.

(2) A person convicted of the offense of criminal trespass to property shall be fined not to exceed $500 or be imprisoned in the county jail for any term not to exceed 6 months, or both.

History: En. 94-6-203 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-6-203.

Cross-References
Definition of "knowingly", 45-2-101.
Definition of "occupied structure", 45-2-101.
Definition of "premises", 45-2-101.
Definition of "enter or remain unlawfully", 45-6-201.
State conservation officers to enforce — where, 87-1-504.

45-6-204. Burglary. (1) A person commits the offense of burglary if he knowingly enters or remains unlawfully in an occupied structure with the purpose to commit an offense therein.

(2) A person commits the offense of aggravated burglary if he knowingly enters or remains unlawfully in an occupied structure with the purpose to commit an offense therein and:

(a) in effecting entry or in the course of committing the offense or in immediate flight thereafter, he or another participant in the offense is armed with explosives or a weapon; or

(b) in effecting entry or in the course of committing the offense or in immediate flight thereafter, he purposely, knowingly, or negligently inflicts or attempts to inflict bodily injury upon anyone.

(3) A person convicted of the offense of burglary shall be imprisoned in the state prison for any term not to exceed 20 years or be fined an amount not to exceed $50,000, or both. A person convicted of the offense of aggravated burglary shall be imprisoned in the state prison for any term not to exceed 40 years or be fined an amount not to exceed $50,000, or both.

History: En. 94-6-204 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 1, Ch. 260, L. 1975; R.C.M. 1947, 94-6-204; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 1, Ch. 357, L. 1987.

Cross-References
Definition of "bodily injury", 45-2-101.
Definition of "felony", 45-2-101.
Definition of "knowingly", 45-2-101.
Definition of "negligently", 45-2-101.
Definition of "occupied structure", 45-2-101.
Definition of "offense", 45-2-101.
Definition of "purpose", 45-2-101.
Definition of "weapon", 45-2-101.
Definition of "enter or remain unlawfully", 45-6-201.

45-6-205. Possession of burglary tools. (1) A person commits the offense of possession of burglary tools when he knowingly possesses any key, tool, instrument, device, or explosive suitable for breaking into an occupied structure or vehicle or any depository designed for the safekeeping of property or any part thereof with the purpose to commit an offense therewith.

(2) A person convicted of possession of burglary tools shall be fined not to exceed $500 or be imprisoned in the county jail for any term not to exceed 6 months, or both.

History: En. 94-6-205 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-6-205.

Cross-References
Definition of "knowingly", 45-2-101.
Definition of "occupied structure", 45-2-101.
Definition of "offense", 45-2-101.
Definition of "possession", 45-2-101.
Definition of "purpose", 45-2-101.
Definition of "vehicle", 45-2-101.

Part 3

Theft and Related Offenses

45-6-301. Theft. (1) A person commits the offense of theft when he purposely or knowingly obtains or exerts unauthorized control over property of the owner and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in such manner as to deprive the owner of the property; or

(c) uses, conceals, or abandons the property knowing such use, concealment, or abandonment probably will deprive the owner of the property.

(2) A person commits the offense of theft when he purposely or knowingly obtains by threat or deception control over property of the owner and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in such manner as to deprive the owner of the property; or

(c) uses, conceals, or abandons the property knowing such use, concealment, or abandonment probably will deprive the owner of the property.

(3) A person commits the offense of theft when he purposely or knowingly obtains control over stolen property knowing the property to have been stolen by another and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in such manner as to deprive the owner of the property; or

(c) uses, conceals, or abandons the property knowing such use, concealment, or abandonment probably will deprive the owner of the property.

(4) A person commits the offense of theft when he purposely or knowingly obtains or exerts unauthorized control over any part of any public assistance provided under Title 53 by a state or county agency, regardless of the original source of assistance, by means of:

(a) a knowingly false statement, representation, or impersonation; or

(b) a fraudulent scheme or device.

(5) A person commits the offense of theft when he purposely or knowingly obtains or exerts unauthorized control over any part of any benefits provided under Title 39, chapter 71 or 72, by means of:

(a) a knowingly false statement, representation, or impersonation; or

(b) deception or other fraudulent action.

(6) A person convicted of the offense of theft of property not exceeding $300 in value shall be fined not to exceed $500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. A person convicted of the offense of theft of property exceeding $300 in value or theft of any commonly domesticated hoofed animal shall be fined not to exceed $50,000 or be imprisoned in the state prison for any term not to exceed 10 years, or both.

(7) Amounts involved in thefts committed pursuant to a common scheme or the same transaction, whether from the same person or several persons, may be aggregated in determining the value of the property.

History: En. 94-6-302 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 22, Ch. 359, L. 1977; R.C.M. 1947, 94-6-302; amd. Sec. 1, Ch. 374, L. 1979; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 2, Ch. 581, L. 1983; amd. Sec. 21, Ch. 670, L. 1985; amd. Sec. 65, Ch. 464, L. 1987.

Cross-References
Civil penalty for shoplifting, 27-1-718.
Fraudulent obtaining of unemployment benefits, 39-51-3203.
Definition of "deception", 45-2-101.
Definition of "deprive", 45-2-101.
Definition of "knowingly", 45-2-101.
Definition of "obtains or exerts control", 45-2-101.
Definition of "owner", 45-2-101.
Definition of "property", 45-2-101.
Definition of "purposely", 45-2-101.
Definition of "stolen property", 45-2-101.
Definition of "threat", 45-2-101.
Definition of "value", 45-2-101.
Theft by disposal of stolen property, 45-6-314.
Fraudulent obtaining of public assistance, 53-2-107.
Unlawful transportation of trees, 76-13-601.
Disturbance or theft of traps or trapped animals, 87-3-507.

45-6-302. Theft of lost or mislaid property. (1) A person who obtains control over lost or mislaid property commits the offense of theft when he:

(a) knows or learns the identity of the owner or knows, is aware of, or learns of a reasonable method of identifying the owner;

(b) fails to take reasonable measures to restore the property to the owner; and

(c) has the purpose of depriving the owner permanently of the use or benefit of the property.

(2) A person convicted of theft of lost or mislaid property shall be fined not to exceed $500 or be imprisoned in the county jail for a period not to exceed 6 months.

History: En. 94-6-303 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-6-303.

Cross-References
Definition of "knowledge", 45-2-101.
Definition of "obtains or exerts control", 45-2-101.
Definition of "owner", 45-2-101.
Definition of "property", 45-2-101.
Definition of "purposely", 45-2-101.

45-6-303. Offender's interest in the property. (1) It is no defense to a charge of theft of property that the offender has an interest therein when the owner also has an interest to which the offender is not entitled.

(2) It is no defense that theft was from the offender's spouse, except that misappropriation of household and personal effects or other property normally accessible to both spouses is theft only if it occurs after the parties have ceased living together.

History: En. 94-6-306 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-6-306.

Cross-References
Definition of "owner", 45-2-101.
Definition of "property", 45-2-101.
Theft, 45-6-301.

45-6-304. Effect of possession of stolen property. Possession of stolen property shall not constitute proof of the commission of the offense of theft. Such fact shall place a burden on the possessor to remove the effect of such fact as a circumstance to be considered with all other evidence pointing to his guilt.

History: En. 94-6-314 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-6-314.

SENATE AGRICULTURE
EXHIBIT NO. #3
DATE 2/11/91
BILL NO. HB 120

TESTIMONY

HOUSE BILL 120

AN ACT CREATING THE FARM ANIMAL AND RESEARCH FACILITIES PROTECTION ACT

MONDAY, FEBRUARY 11, 1991

SENATE AG COMMITTEE

GOOD ~~MORNING~~ afternoon MR. CHAIRMAN AND COMMITTEE MEMBERS. FOR THE RECORD, MY NAME IS KEITH BALES. I AM REPRESENTING THE MONTANA STOCKGROWERS ASSOCIATION, MONTANA WOOLGROWERS ASSOCIATION, AND THE MONTANA ASSOCIATION OF STATE GRAZING DISTRICTS. THESE THREE ORGANIZATIONS REPRESENT LIVESTOCK PRODUCERS ACROSS MONTANA.

ANIMAL WELFARE HAS ALWAYS BEEN IMPORTANT TO LIVESTOCK PRODUCERS AND ORGANIZATIONS THAT REPRESENT THEM. HOWEVER, SOME RADICAL ACTIVISTS ACCUSE LIVESTOCK PRODUCERS OF MISTREATING THEIR ANIMALS UPON WHICH THEY DEPEND FOR THEIR LIVELIHOOD. A SURVEY CONDUCTED BY THE WIRTHLIN GROUP, A LEADING ATTITUDE RESEARCH FIRM, OF 1000 AMERICAN ADULTS SHOWED THAT 68% OF AMERICAN CONSUMERS BELIEVE THAT CATTLE ARE TREATED HUMANELY BECAUSE IT IS IN THE LIVESTOCK INDUSTRY'S BEST INTEREST TO HAVE HEALTHY WELL CARED FOR ANIMALS AND BECAUSE THE LIVESTOCK PRODUCERS DEPEND ON THEIR ANIMALS TO MAKE A LIVING.

YET, THERE ARE CASES OF VANDALISM AND ILLEGAL ACTIVITIES OCCURRING WHERE RESEARCH FACILITIES AND ANIMALS ARE HARMED OR DESTROYED.

THERE HAVE ALSO BEEN INCIDENTS WHICH HAVE AFFECTED LIVESTOCK PRODUCERS DIRECTLY. THREE EXAMPLE ARE:

1) THE DEFACING OF THE OFFICE OF THE CALIFORNIA CATTLEMEN'S ASSOCIATION,

2) THE BURNING OF THE LIVESTOCK AUCTION MARKET IN CALIFORNIA, AND

3) AN ATTACHMENT TO MY TESTIMONY WHICH IS A SPECIAL BULLETIN FROM THE COCONINO COUNTY SHERIFF'S DEPARTMENT IN ARIZONA WARNING CATTLEMEN OF EARTH FIRST'S RECOMMENDATION TO START HUNTING CATTLE AND SHEEP AS A MEANS TO ELIMINATE LIVESTOCK FROM PUBLIC LANDS.

WHILE THESE EXAMPLES ARE FROM STATES OTHER THAN MONTANA, THERE IS NOTHING TO GUARANTEE THIS TYPE OF ACTIVITY COULD NOT HAPPEN HERE.

I WOULD ALSO LIKE TO BRING TO YOUR ATTENTION A BOOK ENTITLED "ECODEFENSE - A FIELD GUIDE TO MONKEY WRENCHING". THIS IS A MANUAL ON HOW TO SPIKE TREES, CUT FENCES, CLOSE ROADS, ETC. ALL DESTRUCTIVE TECHNIQUES WHICH WHEN USED, CAN DESTROY NOT ONLY BUILDINGS, BUT HARM PEOPLE AS WELL.

THE LIVESTOCK INDUSTRY CARES FOR THE WELFARE OF THEIR ANIMALS. WE HAVE TO OR ELSE WE WILL NOT SURVIVE. THERE IS RESEARCH GOING

ON USING ANIMALS THAT BENEFITS THE HUMAN RACE. THERE IS RESEARCH THAT ALSO HELPS THE ANIMALS THEMSELVES. WE DO NOT NEED ONE MORE ISSUE TO WORRY ABOUT.

HOUSE BILL 120 IS A BILL WHICH MAY GIVE AN INDIVIDUAL SOME STRONG THOUGHT ABOUT DESTROYING PROPERTY IF THEY KNOW THEY WILL BE PUNISHED IF CAUGHT.

I WOULD ASK FOR A DO CONCUR ON HOUSE BILL 120.

THANK YOU.

THE COCONINO COUNTY SHERIFF'S DEPARTMENT
Post Office Box 39 • Flagstaff, Arizona 86002 • (602) 774-4523

Joe Richards
SHERIFF

SPECIAL BULLETIN

Attention Cattlemen:

Recent publications from the Earth First newsletter advocate cattle hunting as a means of eliminating cattle grazing on public lands.

In the August 1, 1990 issue of the Earth First newsletter there were articles published recommending hunting cattle and sheep as a means to eliminate livestock from public lands. They indicated that shooting cows and sheep will bring a controversy bringing public attention to the problem. Secondly its one of those things individuals can do to make the world a better place to live.

They recommend using a bow and arrow mainly because it is silent, shotguns can also be use because it is difficult to determine which gun buckshot is fired from. Their choice of weapons however, is a bolt action 30-06 caliber rifle with telescopic site using 180 grain cartridges. They suggest the weapon be purchased second hand thus eliminating records of the purchase.

It is recommend that hunting season is a good time to cow hunt because there are a lot of hunters in the woods, however one should be careful and not get caught. They further recommend that the cow hunter always have a reason to be out in the field wither during hunting season or other times. They also gave tips on the use of camouflage.

The hunter is told not to worry about the meat going to waste because there are plenty of predators that will care for it. Further the cattle should be thought of as one more exotic game animal introduced into the environment. The cattle are easy to hunt, the success rate should be high, and it is a good animal to get your kids or spouse started on.

If you witness this type of activity, call the Sheriff's Department at 774-4523 or toll free 1-800-338-7888.

SEN. AG. Comm.
FEB 11, 1991
SUPPORT
Carol Mosher

MONTANA CATTLEWOMEN INCORPORATED
P. O. Box 1679
Helena, Montana 59624
(406) 442-3420

SENATE AGRICULTURE
EXHIBIT NO. #4
DATE 2/11/91
BILL NO. HB 120

Information Sheet on Animal Welfare

Animal Rights vs. Animal Welfare
There is a difference between animal welfare and animal rights. Animal welfare is the reasonable care of animals; animal rights is the position taken by those who believe that animals have legal rights and "human feelings" and the equality of treatment among species.

To believe that man and all other animals exist with the same rights is "anthropomorphism" or the "humanizing" of animals. This belief is not accepted by the general population. We may think that cattle confined in a feedlot are unhappy and therefore their rights are being violated. On the other hand, perhaps if we had existed on the range where feed was scarce, water was several miles away and the weather was rather sever at times, being in a feedlot where the sound of the feed truck each day bringing fresh, palatable, nutritionally balanced feed to a bunk just a short distance away with shades and sprinklers to keep me cool might seem like a much better place to be.

Animal Agriculture Meets Consumer Demand
The consuming public today is generally unaware of farmer's relationship to their animals and how meat, milk, and eggs are produced on modern farms. Today U.S. animal agriculture is a dynamic, specialized endeavor, the envy of the rest of the world. Only in America can 2% feed 100% of the population as efficiently as we do. American consumers spend just over sixteen percent of their disposable income on food. It is this very clear consumer demand for reasonably priced food of uniform quality in ample supply to which the farmer has responded. Farmers developed new way to raise animals to produce what the consumer wants in a cost efficient way. The key to this efficiency? The best cared-for livestock in the world.

Modern farm animal production is no accident. Improved animal housing, handling practices, and healthy, nutritious feeds are the result of billions of dollars of private and government research into how to raise healthy animals. As American agriculture grows and changes, farmers remain committed to the welfare of their livestock and to providing the highest quality, safest food in the world.

One of the main reasons someone goes into farming or ranching is a desire to work with animals. Agriculture is a very competitive business which pays the farmer a slim profit on the animals he cares for. It is in the farmer's own best interest to see the animals are treated humanely, guaranteeing him a healthy, high quality animal, a greater return on his investment and a wholesome food product. Farmers are always looking for ways to improve their farms to ensure animal welfare and the economics of production. We must also understand the difference between what a human may think an animal wants and what the animal needs. Untended animals may overeat to the point of sickness or death, or drink until they are

Organization	Founded	Officers	Concerns	Budget	Dues	Membership	Affiliation	Notes
Action for Animals Box 20184, Oakland, CA 95620, 415/652-5603	Unavail.	Eric Mills, coordinator	Pet overpopulation, factory farming, research animals	Unavail.	Donations	—	—	Participates in educational programs, rallies for animals and promotes pro-animal legislation
American Anti-Vivisection Society Suite 204, Noble Plaza, 801 Old York Rd., Jenkintown, PA 19046 215/887-0816	1883	James Clark, executive vice-president	Vivisection	Unavail.	$10/year	11,000	—	Works to abolish vivisection, combats use of pound animals in research and funds research that doesn't use animals
American Humane Association 9725 E. Hampden, Denver, CO 80231	1877	Larry Brown, executive director	Exploitation of animals and children	$3.2 million	$10/year $25/year (voting)	23,500	Animal Welfare Institute	Expanded from concern for pets to humane treatment of farm animals; first national group in the U.S.
American Society for the Prevention of Cruelty to Animals 441 E. 92nd. St., New York, NY 10128, 212/876-7700	1866	John Kullberg, president	Prevention of cruelty to animals	$14.5 million	$20/year	170,000	—	First private humane society in the U.S.; has lobbied against veal farming and rodeo cruelty
Animal Legal Defense Fund 1363 Lincoln Ave. #7, San Rafael, CA 94901, 415/459-0885	1978	Joyce Tischler, executive director	Attorneys and law students dedicated to the protection and extension of animal rights	$400,000	$15/year	250 attorneys, 7 local groups	American Bar Association	Working to stop veal farming, hot-iron face-branding of cattle and patenting of genetically altered farm animals
Animal Liberation Front (ALF) Box 3623, 1543 North E. St., Suite 44, San Bernadino, CA 92405, 714/881-9888	1979	Margo Tannenbaum, support group spokesperson	Farm industry and animal research	Unavail.	—	Coalition of 100 animal activists	People for the Ethical Treatment of Animals	Main underground group practicing terrorism; one of the 10 most dangerous groups, according to FBI
Animal Protection Institute 2831 Fruitridge Rd., Box 22505, Sacramento, CA 95822, 916/731-5521	1968	Duf Fischer, executive director	To eliminate fear, pain and suffering for all animals everywhere	$2.6 million	$12-$100	200,000	—	Conducts public education on pet care, homeless pets, laboratory animals, factory farming
Animal Rights Coalition Box 20315, Minneapolis, MN 55420, 612/866-6604	Unavail.	Robbie Zanko, president	To bring about awareness for the feelings and rights of animals	Unavail.	$15-single, $25-family	Unavail.	—	Plans national conferences on animal concerns
Animal Rights International Box 214, Planetarium Station, New York, NY 10024, 212/873-3674	Unavail.	Henry Spira, coordinator	To phase out use of laboratory animals, promote "nonviolent" foods	Unavail.	Unavail.	Millions	—	Coalition of over 400 groups acting as an umbrella group for various coalitions
Animal Welfare Institute Box 3650, Washington, DC 20007, 202/337-2332	1951	Christine Stevens, pres. and dir.	Humane treatment of laboratory animals, farm animals	$400,000	$15/year	8,000	Society for Animal Protection Legislation	Recently published "Factory Farming: The Experiment That Failed;" maintains extensive publishing program
Defenders of Wildlife 1244 19th St. NW, Washington, DC 20036, 202/659-9510	1947	M. Rupert Cutler, president	Preservation of key habitats of wildlife and outlawing pesticides that kill wildlife	$4.5 million	Unavail.	80,000	—	Active in lobbying for changes in public land wildlife policies

*List compiled from selected agricultural and research groups.

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Organization	Founded	Officers	Concerns	Budget	Dues	Membership	Affiliation	Notes
Farm Animal Reform Movement Box 70123, Washington, DC 20088, 301/530-1737	1983	Dr. Alex Hershaft, president	Eliminate abuses to farm animals and other adverse impacts of animal agriculture	$100,000	$20/year	5,000	—	Sponsors the Great American Meatout using celebrities; pickets fast-food restaurants
Food Animal Concerns Trust Box 14599, Chicago, IL 60614, 312/525-4952	1982	Robert Brown, president	End abuse of farm animals in confinement systems	$700,000	Unavail.	Unavail.	—	Promotes new methods of raising livestock, elimination of factory farming and reduction of drug use in animals
Friends of Animals, Inc. Box 1244, Norwalk, CT 06856, 203/866-5223	1957	Priscella Feral, president	Reduce and eliminate suffering inflicted by humans upon non-human animals	$3.5 million	$20/year	100,000	—	Boycotts furs and laboratory animal experimentation and promotes protection of sea animals
Fund for Animals 200 W. 57th St., New York, NY 10019, 212/246-2096	1967	Cleveland Amory, president	Eliminating animal cruelty, protecting wildlife, saving endangered species, protecting lab animals	$1.6 million	$15-adults, $25-family	200,000	New England Anti-Vivisection Society	Caused decline in wearing fur and decision by tuna processors to market only tuna caught by fishermen who don't destroy dolphins
Humane Farming Association 1550 California St., San Francisco, CA 94109, 415/485-1495	Unavail.	Bradley Miller, executive director	Opposes factory farming	$117,000	Unavail.	55,000	Buddhists Concerned for Animals	Sponsors national veal boycott and campaign against factory farming
Humane Society of the United States 2100 L St. NW, Washington, DC 20037, 202/452-1100	1954	John Hoyt, president	Prevention of cruelty to all animals	$10 million	$10-ind., $18-family	400,000	World Society for the Protection of Animals	One of few traditional groups not opposed to use of animals in service of man
In Defense of Animals 21 Tamal Vista Blvd. Corte Modera, CA 94925, (415) 924-4454	1983	Elliot Katz, president	Focuses on animal cruelty in research, animal drug addition and the ivory trade	$350,000	$10/yr.	50,000	—	Primary focus is research and anti-vivisection
Massachusetts Society for the Prevention of Cruelty to Animals 350 S. Huntington Ave., Boston, MA 02130, 617/522-7400	1868	Gus Thornton, president	Preventing cruelty and services to animals through education, lobbying, rescue and animal hospitals		$30-ind., $35-family	50,000	American Humane Education Society	Operates eight animal shelters and three animal hospitals
National Anti-Vivisection Society 53 W. Jackson Blvd, Suite 1550, Chicago IL 60604, 312/427-6065	1929	Mrs. Mary Margaret Cunniff, executive director	Teaching the evils of animal experimentation	$2 million	$10-ind., $15-family	50,000	International Foundation for Ethical Research	Supports the International Foundation for Ethical Research
People for the Ethical Treatment of Animals (PETA) Box 42516, Washington DC 20015, 301/770-8980	1980	Alex Pacheco, founder; Ingrid Newkirk, national director	Opposes all types of animal experimentation and exploitation, crusades against eating meat	$6.5 million	$20/year	280,000	New England Anti-Vivisection Society	Among the most radical of groups; sponsors consumer boycotts and has frequent media appearances
Physicians Committee for Responsible Medicine Box 6322, Washington DC 20015	—	Neal Barnard, MD, director	Uses medical training to lambast eating meat and its impact on the environment	Approx. $170,000	$20/year	26,000	People for the Ethical Treatment of Animals	Message: Vegetarianism is the only way to be healthy and live a long life; fewer than 8% are actually physicians
United Animal Nations-USA 5892A S. Land Park Dr., Sacramento, CA 95818	1985	Belton Mouras, secretary-general	Goal: To unit all groups dedicated to humane treatment of animals	Approx. $450,000	$25/year	Unavail.	United Animal Nations	U.S. branch of the Geneva-based United Animal Nations, which provides a forum and court for animal issues
World Society for the Protection of Animals 29 Perkins St., Box 190, Boston, MA 02130, 617/522-7000	1959	John Hoyt, president	International effort to end animal suffering	Unavail.	Donations	Unavail.	Humane Society of the United States	Conducts animal rescue operations around the world; claims to be only animal group granted consultative status by the U.N.

BEST COPY AVAILABLE

Earth First issues first journal published, edited in Missoula

2-11-91

MISSOULA (AP) — The environmental organization Earth First resurrected its suspended publication this week with a 40-page issue edited in Missoula.

"This paper remains committed to the priority of the earth first," the five-member editorial collective said in its inaugural "Howdy from the Big Sky Country."

"We will not subjugate or compromise our position to accommodate social agendas, nor to avoid conflict with the tenets of the dominant paradigm, such as the sanctity or right of private property."

The Journal was published in Tucson, Ariz., until its staff resigned in December, complaining of FBI harassment and a workload that strained the four-person office. The publication claims a nationwide paid circulation of 15,000.

The Tucson activists have since devoted their time to the legal defense of group co-founder Dave Foreman of Tucson and three Prescott, Ariz., members charged with conspiring to sabotage nuclear power and arms plants.

In their introductory letter, the Missoula editors promised to "give a voice to all parts of radical environmentalism, as we affirm the value of all parts of the natural world."

Earth First and its journal raised eyebrows in the decade past by advocating pot shots at cattle grazing on public land and the demolition of hydroelectric dams, fur warehouses, paper mills and oil refineries.

The first Missoula edition continues the tradition, celebrating the "apparent self-immolation" of a $700,000 Okern from fellerbuncher, "the Pinto of logging equipment, last seen ripping out baby redwoods near Daughtery Creek" in northern California.

The fellerbuncher, the Journal reported, "went up in flames in December, apparently of its own volition."

The paper also included a story on Earth First's "Corporate Fall" protest, where environmentalists took their complaints "right to the posh offices and lavish homes of the people who are actually responsible for the slaughter of the planet."

An accompanying photograph showed Earth Firsters soaking in a hot tub at the home of Harry Merlo, president of Louisiana-Pacific.

"Harry's digs were modest," the Journal reported, "with tennis courts, stables and a private lake."

After an hour of "merrymaking," the protesters were roused by the Mendocino County, Calif., sheriff. A few were arrested, jailed for 12 hours and let go on "time served." When Merlo returned home, he found "Death to Corporate Greed" spray-painted on his driveway, the Journal reported.

"The paper will be geared toward prompting action to save the wilds, and will include conservation biology as a means of supplying the depth of background that makes defense of particular issues so much stronger," the editors said.

"It will," they continued, "have discussions of various wilderness defense tactics, both legal and illegal, ranging from outrageous actions to the equally important mundane daily work of protecting wild things.

"It will include other discussions relevant to activists, concerning such topics as police surveillance and harassment, general organizing and low-impact living."

The editorial collective for the first Missoula issue identified itself as Billy Bob Bodeen II, Carla Neasel, Gaby Barrett, Timothy Bechtold and David Varmint.

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SENATE AGRICULTURE
EXHIBIT NO. #5
DATE 2/11/91
BILL NO. HB 120

TESTIMONY ON H.B. 120

FEBRUARY 11,1991

SENATE AGRICULTURE COMMITTEE

BY

JODI JONES

4-H MEMBER

GOOD AFTERNOON CHAIRMAN JERGESON AND MEMBERS OF THE SENATE AG COMMITTEE. THAN. YOU FOR GIVING ME THE OPPURTUNITY TO PRESENT MY TESTIMONY IN SUPPORT OF H.B. 120. MY NAME IS JODI JONES AND I AM CURRENTLY AN ELEVEN YEAR MEMBER AND HAVE TAKEN BEEF AND SHEEP AS MY ANIMAL PROJECTS.

I WOULD ASK THE MEMBERS OF THIS COMMITTEE TO PASS THIS BILL AS I FEEL IT IS RELEVENT TO THE BENEFIT OF OUR AGRICULTURAL COMMUNITY. FOR THE PAST COUPLE OF YEARS AT OUR LOCAL COUNTY FAIR MANY OF THE 4-H MEMBERS WERE CONFRONTED BY CERTAIN ANIMAL RIGHT INDIVIDUALS. THEY DID NOT CONFRONT THE OLDER 4-H MEMBERS BUT THE NINE AND TEN YEAR OLDS WHO DO NOT KNOW HOW TO DEFEND THEMSELVES. THESE ANIMAL RIGHTS INDIVIDUALS WOULD TELL THIS HELPLESS CHILD HORROR STORIES ABOUT WHAT HAPPENS TO THEIR ANIMALS AFTER THEY WERE KILLED, MOST OF WHICH IS NOT EVEN TRUE. IT IS TOUGH ENOUGH FOR A LITTLE GIRL OF BOY TO SELL AN ANIMAL THAT THEY HAVE RAISED ALL YEAR WITHOUT HAVING TO BE TOLD BY A TOTAL STRANGER THAT IT IS WRONG TO KILL ANIMALS AND KEEP THEM CONFINED AND TIED TO A SMALL AREA. IT IS REALLY SAD TO SEE THE EMOTIONAL EFFECT THESE PEOPLE PUT UPON AN INNOCENT CHILD.

I REMEMBER DISTINCTLY ON SALE NIGHT, THERE WAS A BIG GATHERING OF 4-H MEMBERS OUTSIDE. I WAS BECKONED TO COME JOIN THE GROUP. IN THE MIDDLE OF THAT GROUP WAS A LONG HAIRED MAN TELLING THE KIDS THAT 4-H MEMBERS WERE BEING UNPATRIOTIC BY SELLING OUR ANIMALS BECAUSE MOST OF THESE ANIMALS WERE BOUGHT BY FORIEGN COUNTRI

HE ALSO TOLD US WE WERE BEING INHUMAN TO THE ANIMALS BY SELLING THEM AS WELL AS THE PEOPLE WHO BOUGHT THESE ANIMALS. THE THING HE WAS SADLY MISTAKEN BY WAS THAT MOST OF THOSE ANIMALS ARE BOUGHT BY LOCAL BUSINESSMEN AND INDIVIDUALS.

I LISTENED TO THIS MAN FOR JUST A MOMENT AND THEN TOLD MY FRIENDS TO JUST GET AWAY FROM HIM. I DID THE RIGHT THING BY SIMPLY WALKING AWAY BUT MANY OTHERS DIDN'T.

YOUNG 4-H MEMBERS WHO HAD LAMBS WERE IN TEARS BECAUSE THIS SAME MAN WAS PRACTICALLY NOT LETTING THEM IN THE BARN TO SELL THEIR ANIMALS. NOW YOU CAN JUST IMAGINE, IT IS LIKE BEDLAM ON SALE NIGHT ANYWAY WITHOUT HAVING SOME STRANGER TRYING TO STOP THE ORDER OF BUSINESS.

AS A YOUNG CITIZEN AND A 4-H MEMBER OF THIS COUNTRY WHO IS CONCERNED FOR THE FUTURE OF THE AGRICULTURAL COMMUNITY AND OUR CONDUCT OF BUSINESS I ENCOURAGE A DO PASS ON H.B.120.

SENATE AGRICULTURE
EXHIBIT NO. #6
DATE 2/11/91
BILL NO. HB 120

Testimony HB 120
2-11-91
Senate Agricultural Committee
By: Cindy Benson, 4-H member

Good afternoon Chairman Jergeson and members of the Senate Agricultural Committee.

Thank you for the opportunity to present my testimony in support of House Bill 120.

My name is Cindy Benson. I have been a 4-H member of Beaverhead County for 8 years. This past summer I raised a 4-H Market Hog.

During the 1990 Beaverhead County Fair Sale Night, many Animal Rights Activitists approached 4-H members selling their Market Animals. I was one of these members approached by an Animal Rights Activitist.

This individual proceeded to ask me if all the Market Animals were to die. When I answered,"Yes," she began crying and tried to make me feel guilty.

Moreover, while I was selling my animal, Activitists in the stands above the Buyers hackeled the Buyers by stating, "Murder, murder."

I had the maturity to handle these situations and not give lengthy replies and walk off. However, I know the younger 4-H members became very disturbed by these people.

For these reasons Mr. Chairman, as a 4-H member I ask for do pass on House Bill 120.

TESTIMONY ON HOUSE BILL 120

"An Act Creating the Farm Animal and Research Facilities Protection Act"

AGRICULTURE
EXHIBIT NO. #7
DATE 2/11/91
BILL NO. HB 120

Mr. Chairman and members of the Committee. My name is Warren Frost. I am a veterinarian board-certified in the specialty of laboratory animal medicine and Director of Animal Resources at Montana State University.

For the past several years, dedicated and conscientious researchers in the biomedical and agricultural sciences have endured unjustified personal threats, theft, harassment, vandalism and destruction of state and federally supported laboratory equipment, "trashing" or defacement of research data and loss of research productivity through the use of terrorism by the more extreme elements of the "animal rights" movement. The costs of these illegal acts are being borne by the taxpayer since the research is often federally supported and the facilities are usually at state-supported Universities. Because of the threat of this terrorism, both Montana State University and the University of Montana have expended substantial funds to strengthen security systems in animal housing and use areas.

As a veterinarian, I support the humane and judicious use of animals in research when such use is likely to benefit man and/or animals. It is ironic, however, that many of the acts of animal rights extremists have directly impeded progress in the eradication of diseases of domestic animals, the species the extremists claim to be saving. "Torching" of the Animal Diagnostic Laboratory at the University of California-Davis during the construction phase caused $3.5 million in damages and is perhaps the most blatant example of these senseless acts.

The advocates of animal rights will not be satisfied to halt the use of animals in biomedical research since their credo also declares the use of animals for food or clothing to be immoral and they have already begun to target the livestock industry with irrational acts of terrorism.

While I strongly disagree with the premise of the animal liberationist, I support their right to responsible and legal dissent. I cannot, however, support their so-called "direct action" which has translated into theft, arson, burglary, threats of violence and even personal assaults at many research institutions and farm facilities around the nation during the last few years.

Rather than wait until one of the Montana institutions or the farm community fall prey to this form of terrorism, Montana should join the growing numbers of states including Arizona, Georgia, Illinois, Kansas, Kentucky, Idaho, Indiana, Louisiana, Maryland, Massachusetts, Minnesota and Utah which have enacted laws to protect research facilities and/or farm animal facilities. While research facilities in this state have not yet experienced substantial problems in this area, the legislation proposed here will hopefully serve as a deterrent to such wanton acts and I therefore urge that you give this proposed legislation your very careful consideration. Thank you for the opportunity to testify on behalf of this legislation.

MONTANA STATE UNIVERSITY
1893•CENTENNIAL•1993

Department of Biology
College of Letters and Science
Montana State University
Bozeman, MT 59717-0001
Telephone 406-994-4548

February 6, 1991

The Hon. Jack Rea
Box 103
Capitol Station
Helena, MT 59620

Dear Sen. Rea,

I am writing in strong support of HB 120 (Farm Animal and Research Facilities Protection Act). I am a Professor of Physiology in the WAMI Regional Medical Education Program at Montana State University. I am a member of the Research Allocations Committee of the Montana Heart Association and I am also the Montana representative of the nearly 7000 member strong American Physiological Society's Public Advisory Committee. Officers of both groups have authorized me to speak on their behalf with respect to the bill.

HB 120 is designed to curb the growing menace of violence perpetrated on members of the biomedical community who conduct responsible research on live animals. This violence has taken two forms. The first is physical violence directed to individual scientists. I have several personal friends who have received death threats to themselves and their families because of their involvement in research. One British friend and colleague almost lost his life last summer when a car bomb, attached to the chassis of his car, exploded. While such violence is not addressed in this bill, it clearly illustrates the extent to which the terrorists will go to try to achieve their social agenda.

The second form of violence, which is addressed in this bill, is that perpetrated on facilities in which such research is conducted. There have been scores of incidents in the United States in the past few years in which research facilities were attacked. These attacks have included defacing facilities, stealing laboratory animals in the name of "liberation," destruction of equipment and data, and arson and bombing. Such attacks have cost millions of tax dollars and have seriously delayed some very important research programs.

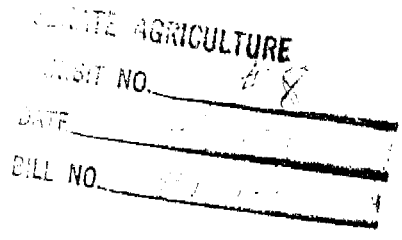
While biomedical research in Montana has been relatively unimpacted directly by terrorist activities to date, there is evidence that we are being targeted for organized disruption. An attempt was made last year to organize a student group at Montana State University whose publicly-stated goal was to stop research which utilizes laboratory animals. This group was clearly associated with People for the Ethical Treatment of Animals (PETA), one of the most vocal and well-funded groups at the national level trying to abolish the

use of animals for any reason. There were at least two incidents this past year in which slogans condemning animal research at Montana State University were scrawled on university facilities. PETA has, based on unfounded complaints from unnamed people, impugned the care and use of animals at Montana State University on two occasions. Last June PETA sponsored a "basic skills seminar for the beginning animal rights activist" in Great Falls. Much of the emphasis of this program was placed on disruption of biomedical research. Montana State University was identified as a major target of the group in the state. All of these incidents point out that we will almost certainly face more efforts to stop the use of animals for research in Montana.

Enactment of HB 120 will make Montana one of a growing number of states to acknowledge that the impact of attacks on a research facility can extend well beyond the actual physical damages. Such attacks not only damage property and equipment, but they can disrupt very long-term research programs at a great unseen cost to everyone involved. That is why we feel it necessary to enact legislation which goes beyond the scope of the laws now in effect. I urge you to support the bill both in committee and on the floor.

Sincerely,

James A. McMillan
Professor of Physiology



WITNESS STATEMENT
Tim Sweeney -- House Bill 120

Chairman Jergeson and Senators, my name is Tim Sweeney. I am the President of the Lewis & Clark Humane Society and a licensed member of the State Bar of Montana.

I wish to express the opposition of the Lewis & Clark Humane Society to House Bill 120.

The Lewis & Clark Humane Society is a non-profit corporation. Though we are not a government agency, we conduct cruelty investigations for various local and county governments. And while we conduct these investigations in compliance with the search and seizure provisions of Section 11 of the Montana Constitution and the 4th Amendment of the U.S. Constitution, the various sections of House Bill 120 would make us criminally liable for previously legitimate investigations.

The Lewis & Clark Humane Society also provides shelter services to local and county governments, as well as the public at large. This bill would attach criminal liability for any animal we took in, even if brought to us by a government agency, if that animal were determined to have come from an animal facility as defined in House Bill 120.

These are but two examples of the adverse impact House Bill 120 would have on our organization and similar organizations. In fact, if this bill were to pass I would have to advise our board of directors to cease or seriously curtail our shelter operations.

Finally, beyond these practical concerns is a much larger policy question. Why is this Legislature attempting to assign such severe and unusual penalties to that segment of the public which supports animal rights? This is not to say that persons supporting animal rights who criminally trespass and engage in criminal mischief should not be punished to the full extent of the law. They, like anyone else who commits criminal trespass and mischief, should be prosecuted under Sections 45-6-101 and 45-6-203 of Montana's criminal code. They should also be liable for court costs and restitution as provided for in Section 46-18-201, like anyone else.

However, under House Bill 120, persons who commit such acts in support of animal rights are to be accorded harsher penalties than those who commit such acts in furtherance of other causes, for example, in support of the right-to-life movement or in opposition to the war. This bill represents special-interest legislation and is more a political statement than it is an attempt to improve Montana's criminal code. And, I would submit to you that this kind of political discrimination is wrong.

Unless you are certain that you yourself will never be in the political minority, I would urge you to consider the serious political and policy ramifications of House Bill 120.

I thank you for this opportunity and would request that you oppose House Bill 120 for all the aforementioned reasons.

II/

SENATE
EXHIBIT NO. #9
DATE 2/11/91
BILL NO. HB 12

Federated Humane Societies of Montana

I am Barbara Dahlgren,834 Marshall Street,Missoula,Montana.

This is a breif chronology of the happenings at the Stevensville beaver farm,as I know them and worked with them. During November & December of 1985 our Humane Society received reports that there were dead and dying animals a the beaver farm,we were told that the problem would be taken care of, and in checking back,were told that it had been taken care of,1100 animals had died We also learned that more than 200 animals had died at a fur farm near Orem Utah,owned by the same Corporation as the Stevensville farm.

Feb. 6,1986 another report of starvation & cruelty,assured that it would be corrected.

November,1986,Dennis Crum,pres. of International Furs applied for economic development bonds for 4 million dollars, with which to put in place 5000 new pens and refurbish 850 more in Missoula and Ravalli Counties.That plan went all the way to the State Economic Development Board with an OK,until they le of the applicant's track record, and thier decision was overturned.

Dec.,1986 I received more reports that there were many dead animals.

Jan. "87 a man helping at the farm reported that there were 27 dead,and th the living were eating each other.He was helping burn the dead.The care take had left because he was not being paid,and he called the police to tell them

All of this time the Humane Society could not get permission to go on the premises of the farm,and one could not see a thing from the road,there was n phone,or person in charge to contact.

I called the County attorney's office,and immediatley after that the Sheri office visited the farm, and called me to say that" things were really bad a the farm".On that day I ask the Fish Wildlife & Parks about what to do and h to care for the animals since we were all novices.To my knowledge they did n respond. On Oct. 7th we received a court order to to help feed,and check on the animals.The Sheriff Jim Baily asked for our help,to help clean and feed the animals,since the situation was critical.Several more died and were sick

I again ask for assistance from FW&P,for we were at a loss as to what and how much to feed the animals,since there were no instructions or regulations at the farm.There were no tools with which to work,so brought our own.

We were doing the best we could,with out having any real knowledge of what to do or how to do it.We were willing to do the work,if we only knew what to do,thus we relied on the FW&P for guidance but.....we

Federated Humane Societies of Montana

received none,tho' I did see one of them at the farm breifly after that.

Oct 11,"87 The October 7th Court order from the Ravalli County Attorney's office enabled us to feed and care for the animals.We hired some people, and organized some volunteers to help with the huge task before us with feeding, cleaning,cutting wood, and disposing of the dead. At this time another care taker was hired by the Corporation,he was Scott Heeps,it seemed to us that things might go better now,however we continued to checkon the farm every few days.Scott quit on Dec. 31st because he was not being paid,and atthat ti another caretaker was on the scene,he was Doug Volene,who seemed to resent the authority that the Humane Society had via the Court order.We continued to haul wood and help clean and feed.Doug's attitude did not improve,and the care of the beavers diminished.

Early January the Corporation issued orders to pair the animals for breedi

January 10th 1988 the gate between the residence which was not lived in and the area where the pens were,was locked.

On a visit to the Farm on Mar.13th I again found some dead animals.

On March 14th a trial was held in Ravalli County Charging Dennis Crum with cruelty to animals,he did not show up for the trial, but was found guilty and ordered to pay a $2000.00 judgment issued by the Court.Neither of those conditions have been met. We were informed that Dennis Crum had declared bankruptsy.

Conditions at the farm were much less than satisfactory ,until we come to early June when more were dying.

On June 5th a representative from a National organization arrived,on June 6th we assisted with the feeding and cleaning of the animals, also transferred our court order over to the PETA representative,and we were releived of any more responsibility.

I believe it is important to know that a lengthy prospectus of the Corporation boasts that they intend to have the entire beaver industry of the world,they allow that the Russians could have a corner on the Sable.There was no security at the farm,thier corporation was not on file in Montana,nor did they have a permit to operate a fur farm ,as required by law. A complicate Corporation made up this group,Great Western Equities,Contract Feeders, Domestic Furs ltd.(Canadian) and International Furs.

I strongly suggest that this bill be passed to prevent such cruelty and waste of living creatures from ever happening again.

MISSOULA COUNTY
MISSOULA

CITY-COUNTY HEALTH DEPARTMENT
301 W. ALDER
MISSOULA, MONTANA 59802

(406) 721-5700

SENATE AGRICULTURE
EXHIBIT NO. # 10
DATE 2/11/91
BILL NO. HB 120

To: The Senate Agricultural Committee

From: Robert Micken, Supervisor, Missoula City/County Animal Control
725 Polk St.
Missoula, MT 59802

Dear Committee Members;

I would like to express some concerns that I have with House Bill 120, and I have asked that Barbara Dahlgren relay my comments to the Committee.

My concerns lie primarily in Section 3, subsection 2-E, which reads:

"A person who does not have the effective consent of the owner and who intends to damage the enterprise conducted at an animal facility may not enter an animal facility to take pictures by photograph, video camera, or other means..."

I strongly agree that all "persons", as defined in Section 2, should be able to enjoy freedom from physical damage inflicted upon their facilities and/or property. There are a great number of people in the state who are involved in legal, humane, animal-oriented enterprises, who should be protected. However, it is impossible to deny that there are also those that are involved in enterprises where animals are kept in conditions, and for reasons, that are not suitable for any living creature. These are the people that I fear may benefit from the wording of this section.

These inhumane enterprises may benefit because there are many areas in Montana that do not have government agencies designed specifically to deal with animal concerns, therefore the burden of such investigations falls upon non-government agencies, such as the local Humane Society. Therefore, I feel that it is imperative that humane organizations, regardless of their affiliation, retain this ability to document the atrocious conditions that can, and do, exist in some facilities. I am concerned that the wording of this section would seriously inhibit the ability of these organizations to carry out this much needed function in the protection of animal rights.

I urge the Committee to re-examine Section 3, subsection 2-E and the ramifications that it could have.

Thank you for your time and attention.

Sincerely,

Robert Micken, Supervisor
Missoula City/County Animal Control

MISSOULA HUMANE SOCIETY
1105 CLARK FORK DRIVE
MISSOULA MONTANA 59802
(406) 549-1934

SENATE AGRICULTURE
EXHIBIT NO. #11
DATE 2/11/91
BILL NO. HB 120

February 8, 1991

The Honorable Greg Jergeson
Chairman, Senate Agriculture Committee
Capitol Station
Helena, Montana 59620

Dear Senator Jergeson:

As an animal welfare organization, incorporated under the state laws of Montana for the purpose of preventing cruelty to animals, the Missoula Humane Society opposes HB 120, the "Farm Animal and Research Facilities Protection Act".

The Missoula Humane Society does not condone or engage in illegal activities. We acknowledge the right of individuals, businesses and government agencies to be protected against illegal trespass, harassment, theft, and damage to property. Since state law already prohibits, and provides substantial penalties for these offenses, HB 120 serves only to target and intimidate law abiding individuals who wish to help correct animal abuse.

HB 120, as written, would have far reaching and, we believe, unintended consequences for organizations such as ours. Animal welfare organizations would be unable to take any action regarding complaints of neglect or abuse. This bill would not only impede legitimate organizations from investigating and documenting animal abuse and neglect complaints, it would potentially make it a criminal offense to do so!

Though law enforcement personnel would have access to such sites, in our experience, animal abuse is not a law enforcement priority. Law enforcement officials have little or no training in animal care, handling or animal cruelty investigation. Though our role is not enforcement, humane societies often assist law enforcement by documenting and gathering evidence.

Because the definitions incorporated into this bill are so broadly and vaguely defined, it protects virtually all animal-related enterprises, even those which involve illegal activities. It would be ludicrous for the legislature to pass a bill which effectively protects from public scrutiny, activities which are prohibited under other state laws.

There are many opinions regarding the role of animals in society, and regarding their appropriate care. Given this diversity, our organization would request that any legislation considered, first provide minimal standards for the care and treatment of animals kept in these facilities. Consideration of any measures protecting these facilities from public involvement is inappropriate until these basic issues have been addressed.

In conclusion, HB 120 duplicates protection already provided under state laws and would infringe upon the rights of Montana citizens and organizations. It would protect from public scrutiny, potentially illegal activities and enterprises, and it would impede the legitimate investigation and documentation of cruelty complaints undertaken by community animal welfare organizations. The Missoula Humane Society urges you to speak out against, and vote against, HB 120.

Thank you for your consideration.

Sincerely,

Constance F. Carson
Director, Missoula Humane Society

cc: Frances Koehnke
Gary Akhestad
Tom Beck
Betty Bruski
Jerry Devlon
Jack Rea
Berny Swift
Bob Williams

February 11, 1991

SENATE AGRICULTURE
EXHIBIT NO. #12
DATE 2/11/91
BILL NO. HB120

Senators of the Agriculture Committee:

My name is Kathy Jones. I live in a rural community of the great state of Montana. I own livestock and companion animals that I feel greatly enrich my life. The ranchers with whom I associate do not favor a bill that facilitates animal abuse as HB120 does. I am not an animal rights activist. One does not have to be an animal rights activist to oppose HB120 as it is now written. I expect that many of you here today own livestock and pets that you care about. If you were witness to extreme animal cruelty you yourselves might feel compelled to correct a bad situation. HB120 severely restricts you, animal welfare agencies, and law enforcement from doing so. This document endorses an anything-goes policy behind closed doors with no allowance for scrutiny. The scope of HB120 will have unintended and far-ranging consequences negatively affecting even the most well-meaning citizen.

The Montana Farm Bureau proposed this bill expecting it to be a deterrent to organizations accusing livestock producers and research institutes of mistreating animals. In reality the opposite of their objective may occur. If the intent of this bill is to curtail fanatic animal rights activists then simple logic indicates that this bill does not accomplish that goal. Breaking laws already in place, which HB120 only duplicates, has not stopped them before and won't stop them now if they suspect extreme cruelty or atrocities are being committed towards animals. Few can deny that their tactics are effective. HB120 gives them even more ammunition by adding fuel to the fire.

If you want to suppress the suspicions of animal-rights advocates, I suggest you go back to the drawing boards and create legislation that will set minimum standards of care including authorized inspections to monitor and scrutinize the compliance of those standards. In addition, you will demonstrate to the public that our legislators do have scruples after all. If you don't re-draft HB120 with the inclusion of measures that will benefit all, including the animals, then you're going to have to answer the question--if not, why not?

If indeed the facilities in question have nothing to hide, there should be no objections from them. They should welcome standards of care subject to scrutiny, as other states have in place, to assure the public that atrocities are not being committed. For if they are, and HB120 passes, our legislators will be indentified as endorsing unlawful acts.

I propose that you table HB120 for now since it does not accomplish its intent. Initiate a committee to study alternatives as other states have done. Include representatives from research facilities, animal welfare agencies, the U.S. Departments of both Agriculture and Health, law enforcement officials, and legislators who, working together, would draft a much more comprehensive bill that will address each agencies concerns and will not jeopardize the welfare of animals or facilitate their mistreatment.

I am not familiar with any reason why a hasty passage of this bill is necessary. The decision of how you will vote will affect every citizen of this state. I strongly urge you and your constituents to vote against HB120. Thank you.

SENATE AGRICULTURE
EXHIBIT NO. # 13
DATE 2/11/91
BILL NO. HB 120

February 11, 1991

In Montana the law states that the county sheriff is the humane officer in each county. The Lewis and Clark Humane Society is one of approximately 12 in our state. Most people report possible animal cruelty to the humane society before contacting the sheriff. County sheriffs appreciate this assistance in receiving these complaints. The follow-up is often corrected by educating the owners about proper care of their animals. If this is not the case, then the county sheriff becomes involved. When legal action is required and the case is presented to the county attorney, the better the preliminary investigation, obviously the quicker the case can be prosecuted.

Our humane society adheres to their cruelty investigation handbook which includes current Montana statutes on animal cruelty as well as the city of Helena ordinances on animal control. A few key points in our handbook are: No one except those specifically authorized and trained investigates any cruelty complaints. Never is an unauthorized search of the premises made. Written permission or a search warrant is required before photographs are taken.

Most county sheriffs and county attorneys appreciate the involvement of a humane society which saves them valuable time in a case which may be easily handled. The public expects the humane society to act on animal cruelty cases. I feel this is being done successfully without the need for House Bill 120 which could impede legitimate animal cruelty investigation.

Submitted by Carol Reiter, Vice-President of the L & C Humane Society Board of Directors

SENATE AGRICULTURE
EXHIBIT NO. # 14
DATE 2/11/91
BILL NO. HB 120

February 11, 1991
Senate Agriculture Committee
Testimony opposed to HB120

By: Judith Fenton, Secretary/Treasurer
Federated Humane Societies of Montana
Blue Sky Heights #26
Clancy, MT 59634

I am opposed to HB120 for four reasons.

1. The general public acknowledges that animal cruelty will not be tolerated by civilized people. This attitude is growing and will not go away. This bill will color the work done by animal welfare people in the eyes of Judges and County Attornys. If future cruelty investigations are more difficult we may more often have to resort to publicity to correct a situation and ensure that animals are being properly cared for. The public perception of animal cruelty is a powerful tool. If local publicity attracts national attention, then radical groups may become involved. To guard against any more adverse national public opinion of Montana, we need to strengthen our laws concerning animal cruelty, not weaken them.

   During discussion on this at second reading in the House, one member admitted that he had worked in a reasearch facility in another State. He said animals were being mistreated but the local ASPCA was legally prohibited from any investigation at that facility.

2. This bill is unnecessary. Our laws already make it illegal to tresspass, steal or vandalize. Why are animal welfare people pin-pointed by this bill and the testimony of its proponents. Our constitution doesn't allow an individual or group to be singled out for special treatment under the law. Some adults and teenagers are involved in various acts of vandalism often for no apparent reason. I wonder which law would be applied if a group of young people vandalized a fence or some other part of a property where some animals were held. Would this law apply to them with its triple penalt or since these were just ordinary youngsters and not animal welfare people, I supposethe original law against damage to private property would apply.

3. For 13 years I have worked for animal welfare in Montana. Even now a lot of time is taken away from the small business I operate. Like most of the other people who work with me, we have never asked for any payment or even recognition for our efforts. What we don't deserve is a slap in the face like this. The problem with this bill is that Montana's animal welfare people are not radical activists. We have always emphasized that all actions taken in a cruelty situation be completely legal. To prove that our intentions are proper, Montana animal welfare and animal control people are presently taking cruelty investigation workshops at the Montana Law Enforcement Academy in Bozeman. Our next session is scheduled in April of this year. We want to learn not only legal but effective investigation techniques.

In Montana we have always felt that illegal behavior focuses attention on the people or group involved and away from the actual animal cruelty.

4. Lastly I can't help but wonder that, if someone feels a bill like this is necessary, then perhaps someone is trying to hide something. Where are there animals being mistreated right now that we are being kept unaware of?

Thank you for your consideration of my viewpoint on HB120.

STATE OF MONTANA
DEPARTMENT OF JUSTICE
LAW ENFORCEMENT ACADEMY DIVISION

Marc Racicot
Attorney General

620 South 16th Avenue
Bozeman, MT 59715-4198

COURSE ANNOUNCEMENT

ANIMAL CONTROL WORKSHOP: CRUELTY INVESTIGATION

CO-SPONSORED BY THE
MONTANA LAW ENFORCEMENT ACADEMY
AND THE
MONTANA ANIMAL CONTROL ASSOCIATION

APRIL 19 - 21, 1991

COURSE PURPOSE
The purpose of this course is to enhance and upgrade the basic skills of city/county animal control officers and other enforcement personnel assigned to investigate and manage animal cruelty complaints and incidents in Montana.

REGISTRATION
Registration and check-in will be held Friday, April 19, 1991 from 1800 - 1900 hours. Class will begin Friday at 1900 - 2100 hour on Animal Cruelty Laws in Montana.

COURSE SUMMARY
This course will be held at the Montana Law Enforcement Academy and the MSU Stock Pavilion.

Saturday will be spent at the MSU Livestock Pavilion and live animal will be examined. Topics will include judging, "hollowbelly vs. jellybelly", foot conditions and other issues. Curt Ransom will present and discuss investigative techniques, samples, pictures and other details necessary for convictions in cruelty cases.

	Saturday, April 20 Classes
0800 - 1200	Judging Body Condition of Domestic Pets and Livestock
1300 - 1700	Judging Body Condition (continued)
1700 - 1830	Business Meeting: MACA and Federation of Humane Societies
	Sunday, April 21 Classes
0800 - 1200	Investigating Cruelty Complaints
1300 - 1500	Investigative Philosophy and Legal Summary

TELEPHONE: (406) 994-3918

COURSE INSTRUCTORS

The instructors for this program will be Rob Brown of the MLEA Legal Section, Dr. Jack Catlin, DVM, Montana State University, and Curt Ransom, American Humane Field Staff Associate, Denver, Colorado.

COURSE FEE

A $ 35.00 course fee made payable to MACA will be collected upon registration. This will include lodging at MLEA on Friday, 4/19 and Saturday 4/20. Breakfast and lunch on Saturday and Sunday will also be provided by the Academy and the Department of Justice.

FUTURE WORKSHOPS

Dates for future MACA workshops at the Montana Law Enforcement Academy are scheduled as follows: 1991 Fall Conference, October 18, 19, 20, 1991, 1992 Spring Conference, March 6, 7, 8, 1992, First Animal Control Officer's Basic Course, October 18 - 24, 1992.

pp

HELENA VETERINARY SERVICE
2930 N. MONTANA AVENUE
HELENA, MONTANA 59601

TELEPHONE (406) 442-6450

SENATE AGRICULTURE
EXHIBIT NO. #15
DATE 2/11/91
BILL NO. HB 120

Concerning House Bill No. 120:

My name is Dr. Julie A. Kappes. I have been a small animal practitioner in Helena for the past 7 years and a board member of the Lewis and Clark Humane Society for the past 6 years. I am apposed to House Bill No. 120 due to proposed penalties which are not only unreasonable, but are outrageous.

As a preveterinary student, I was involved in a spinal cord trauma research project through the Colorado State University Research and Diagnostic Laboratory. Over 100 mixed breed dogs had their spinal cords surgically severed to simulate a trauma induced spinal cord injury. The dogs were maintained in small cages for periods up to 12 months. Due to hindlimb paralysis, the dogs were constantly soiled by their own urine and fecal matter; and suffered numerous decubital ulcers over the body. If one believes in animal moral-it was poor. Staff researchers rarely inquired about the condition of the animals and daily neurological exams for research became increasingly less frequent. At the termination of the research period the dogs were euthanized and lay workers dissected spinal cords from all animals for subsequent sectioning and examination.

Ten years later I revisted the laboratory. The original research team was gone and 100 spinal cords were untouched in formalin filled jars in the same cooler.

I am not anti-research if it be conducted in a humane fashion and the results utilized in some manner. Neither do I advocate violent or illegal actions to disrupt reaearch or research facilities. I know firsthand, however, that not all research is valid; nor is all research conducted in a humane fashion.

HELENA VETERINARY SERVICE
2930 N. MONTANA AVENUE
HELENA, MONTANA 59601

TELEPHONE (406) 442-6450

Laws that regulate animal and research facilities are vague and difficult to enforce. A protection act, as proposed by House Bill No. 120, would remove, no doubt, any fear of public scrutiny which may at present help police those facilities. And to impose penalties stiffer than for many felonies on individuals outraged by alleged inhumane treatment of animals seems in itself unjust.

Sincerely,

Julie Kappes

Julie A. Kappes, D.V.M.

AGRICULTURE
EXH NO. #16
DATE 2/11/91
BILL NO. HB 120

P.O. Box 62
Basin, Mt. 59631
February 7, 1991

Senator Greg Jergeson, Chairman
Agriculture Committee
Montana State Legislature
Capitol Station
Helena, Montana 59620

SUBJECT: H.B. 120

Dear Mr. Chairman:

Please recieve this as a request to vote NO on HB 120.

Even though, I do not condone criminal activity to properties of others, THIS BILL TAKES AWAY THE ASSURANCE OF HUMANE TREATMENT FOR ALL ANIMALS.

Thank you for your consideration for your consideration to my request.

Sincerely,

Jenifer Wise

Jenifer Wise

cc: Agrilculture Committee Members
Agrilculture Committee Secretary

Dorothy Quinn, Secretary
Agricultural Committee
Capital Station
Helena, MT 59620

February 7, 1991

SENATE AGRICULTURE
EXHIBIT NO. #17
DATE 2/11/91
BILL NO. HB 120

Subject: House Bill 120

Dear Ms Quinn:

I am writing to you concerning Rep. Hayne's House Bill 120. The possiblility of passage of this bill in any form is very distressing to me. Having worked for years for the advancement of animal welfare I see this bill as a step in regression.

As an advocate for animal rights I feel that all animals deserve to be treated humanely. Since they cannot speak for themselves their humane management must be guaranteed by us. This means we, the public, must be able to physically inspect the conditions under which they are kept at any time.

Rep. Hayne's House Bill 120 would virtually eliminate any access to inspection by animal welfare organizations and other concerned people. Why does this bill oppose taking pictures of conditions under which animals are kept? One possible reason could be that a business would not want public exposure of inhumane treatment of their confined animals. House Bill 120 states that no pictures be taken for the purpose of closing the business. If pictures display animals in such a poor state that the business should be closed, then so be it. Being able to inspect and, if necessary, to take pictures will help insure the acceptable treatment of animals in the care of any business using them for profit.

All living creatures have a right to humane treatment, health care, and proper nutrition. I feel that we, as humane people, cannot allow mistreatment of any animal because of profit. Any business that subjugates animals can afford proper care of them. Ethically, it cannot be otherwise.

I do not, in any way, advocate terrorism for any reason. But does that mean we must go to the opposite extreme to create an atmosphere free of controls for unscrupulous business people? Please do NOT pass House Bill 120.

Thank you for your time and consideration of this matter.

Sincerely,

Nell Holtzclaw

Nell Holtzclaw
203 South Crystal
Butte, MT 59701

cc: Agriculture Committee members and secretary

SENATE AGRICULTURE
EXHIBIT NO. #18
DATE 2/11/91
BILL NO. HB 120

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 11 day of February, 1991.

Name: Marc Passmann

Address: 325 E. Front #1
Missoula, MT 59802

Telephone Number: (406) 549-2664

Representing whom?
Myself

Appearing on which proposal?
HB120

Do you: Support?____ Amend?____ Oppose? ✓

Comments:

In my view, this bill attempts to protect animal rights abusers by shutting down all means of bringing these abuses to light. Specifically, I am concerned with the provisions mentioning photography. In the past, many animal rights abuses have been brought to light through photographs taken in labs, on farms, etc. Many of the photos were taken by researchers working in the labs and on the farms who witness these abuses. This law would effectively shut this activity down and rely solely on legal entry into a facility. Under these conditions, the labs and farms are forewarned and can clean-up their act before the inspection. The act would therefore make it more difficult to bring these abusers to justice.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

I feel the act not only attempts to stop illegal destructive action, but also protects the abusers by making it more

SENATE AGRICULTURE
EXHIBIT NO. #19
DATE 2/11/91
BILL NO. HB 120

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 11 day of February, 1991.

Name: Molly Baer Kramer

Address: 101 E Broadway Rm 602 Missoula 59801

Telephone Number: 406-728-5733

Representing whom?

Self

Appearing on which proposal?

HB 120

Do you: Support?____ Amend?____ Oppose? X

Comments:

There are experiments that happen daily which are inhumane, unnecessary, and cruel to the animals which serve as the subjects. HB 120 would allow these experiments to continue, as it would penalize non-govt organizations or individuals who attempt to film ~~expose~~ research methods and farming practices that violate animal protection acts and health codes.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

DATE 3/11/91

120 & COMMITTEE ON Senate Agriculture

HJR 6

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppos
Patrick Judice	self	HB120		X
Susan Mahoney	self	HB 120	X	
Dana Steinbach	self	HB120	X	
Vicki Lemmer	self	HB120		X
Michelle Frodsey-Hostetler	Missoula Humane Soc.	HB 120		X
Barbara Rodriguez	Ted Nugent Soc. Int-	HB120		X
Judith Fenton	Federated Humane Societies of MT	HB120		✓
Lee Graham	State Dept of Livestock	"	✓	
Carol Reiter	L+C Humane Society	HB120		✓
Donna Mosher	self	HB120	✓	
Bobbi Lemmer	self	HB120	✓	
Kent Mosher	self	H120	✓	
Julie Lucite	self	H120	✓	
Kim Davidson	self	H120	✓	
Lucky Wagner	self	H 120	✓	
Carol Mosher	Mt. Cattle Women	HB120	✓	
JIM SWEENEY	LEWIS & CLARK HUMANE SOC	HB120		✓
Marvin Barber	A.P.	HB120	✓	
JACK HAYNE	Self	HB120	✓	
TERRIE Dowling			✓	
Jodi Jones	4-H	HB120	✓	
Cindy Benson	4-H	HB120	✓	
Lois Jones	4-H	HB120	✓	
Linda Brandt	Farm Bureau	HB120	✓	
[illegible]	Farm Bureau	HB120	✓	
Al Kurk	AERO	HJR6	✓	

DATE 2/11/91

COMMITTEE ON Agriculture

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Roger Tippy	Mt Veterinary Medicine Asso	HB120	X	
Molly Baer Kramer	self	HB 120		X
Marc Passmann	Self	HB 120		X
Kris Maenz	Self	HB 120		X
Robert L Dupuy	Self	HB 120	X	
Roger J Hamm	Self	HB 120	X	
M. E. Sievert	Self.	HB 120	X	
Jim Yonkered	MT Assn. of State Drainage Dists	HB 120	✓	
Ted Doney	MT Dairymen	HB 120	✓	
Charles E Brooks	MT Fertilizer Group	HB 120	✓	

MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION

Call to Order: By Senator Greg Jergeson, on February 13, 1991, at 3:00 P.M.

ROLL CALL

Members Present:
Greg Jergeson, Chairman (D)
Francis Koehnke, Vice Chairman (D)
Gary Aklestad (R)
Thomas Beck (R)
Betty Bruski (D)
Gerry Devlin (R)
Bernie Swift (R)
Bob Williams (D)

Members Excused:
Jack Rea (D)

Staff Present: Doug Sternberg (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion:
Chairman Jergeson announced that no bills would be heard and this would be an Executive Action session.

EXECUTIVE ACTION ON HOUSE BILL 207

Senator Swift made a motion that HB 207 DO PASS. Those in favor - 9; opposed - 0. MOTION CARRIED. (Senator Rea voted by proxy)

Senator Devlin will carry HB 207 on the floor of the Senate.

EXECUTIVE ACTION ON SENATE JOINT RESOLUTION 14

Discussion:

Senator Aklestad stated he is not sure what the study would gain. Senator Jergeson said his understanding is that to a degree this is a companion measure of the anti-trust bill which was passed on the floor of the Senate which gives additional authority to pursue some of these cases. From testimony offered

by the Attorney General's representative at the hearing, they would like the study in order to develop a base of information to enable Montana to join with other states to act in concert on this issue. It is his opinion the study would confirm that the concentration fears are well founded, or would show they need not worry about the concentration activities.

Discussion indicated that if the resolution was killed in committee, it would show lack of support of any action in this regard.

Further discussion centered around the makeup of the interim committee. Doug Sternberg explained the procedure of selection of resolutions to be funded for study. Legislative Council staff would be appointed to coordinate the study, and they make every effort to get input from the private sector. It was pointed out that an interim committee is comprised of legislators, and it would be bipartisan.

Recommendation and Vote:

Senator Aklestad made a motion that SJR 14 DO PASS. In favor - 7; opposed - 2 (Beck and Devlin). MOTION CARRIED. (Senator Rea voted by proxy, in favor).

EXECUTIVE ACTION ON HOUSE JOINT RESOLUTION 6

Recommendation and Vote:

Senator Aklestad made a motion that HJR 6 BE TABLED. In favor - 6; opposed - 3 (Rea, by proxy; Williams and Jergeson) MOTION CARRIED.

* * * * * * * * * *

The Committee discussed House Bill 120, an act to create farm animal and research facility protection, but no Executive Action was taken.

ADJOURNMENT

Adjournment At: 4:15 P.M.

Greg Jergeson
GREG JERGESON, Chairman

Dorothy Quinn
DOROTHY QUINN, Secretary

GJ/dq

AG021391.SM1

ROLL CALL

AGRICULTURE COMMITTEE

DATE 2/13/91

52nd LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. JERGESON	X		
SEN. KOEHNKE	X		
SEN. AKLESTAD	X		
SEN. BECK			
SEN. BRUSKI	X		
SEN. DEVLIN	X		
SEN. REA			X
SEN. SWIFT	X		
SEN. WILLIAMS	X		

Each day attach to minutes.

MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION

Call to Order: By Senator Greg Jergeson, on March 6, 1991, at 3:00 P.M.

ROLL CALL

Members Present:

Greg Jergeson, Chairman (D)
Francis Koehnke, Vice Chairman (D)
Gary Aklestad (R)
Thomas Beck (R)
Betty Bruski (D)
Gerry Devlin (R)
Jack Rea (D)
Bernie Swift (R)
Bob Williams (D)

Members Excused: None

Staff Present: Doug Sternberg (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion:

Chairman Jergeson informed the committee that the House is rotating their committees as of March 11, and Doug Sternberg, Legal Counsel, will be working with the House Agriculture Committee. Chairman Jergeson thanked Mr. Sternberg for his services as Researcher. Mr. Sternberg introduced Connie Erickson who will take over the duties of Legal Counsel for the Senate Agriculture Committee.

HEARING ON HOUSE BILL 622

Presentation and Opening Statement by Sponsor:

Representative Chuck Swysgood, House District 73, stated that this bill eliminates the agricultural business incubator program from the Growth Through Agriculture Act. By way of background, he advised that in 1987 Cal Winslow had a bill which created the Growth Through Agriculture Act that established three parts to that act: (1) seed capital, (2) market research program, (3) business incubator program. The business incubator applied to communities of 15,000 population or less with a matching requirement necessary to implement it. He stated his area was

Opponents' Testimony:

None.

Questions From Committee Members:

Senator Beck referred to an newspaper article indicating the case was to be re-opened. Representative Nelson stated that was correct, and Governor Stephens had received a positive letter to that effect.

Senator Devlin asked if any Resolution had been sent to the Congressional delegation in the past. Rep. Nelson stated she did not believe one had been sent previously.

Senator Williams asked approximately how many dollars have been spent pursuing this case. Rep. Nelson stated it was in the area of $900,000 on the part of the state, and Senator Jergeson added that $300,000 has been paid by the grain growers.

Closing by Sponsor:

Representative Nelson stated that she and her husband are among the 14,000 complainants in this case. She urged some action on House Joint Resolution 41.

EXECUTIVE ACTION ON HOUSE JOINT RESOLUTION 41

Amendments, Discussion, and Votes:

Senator Devlin made a motion that the amendments to HJR 41 be adopted. Those in favor - 9; opposed - 0. MOTION CARRIED.

Recommendation and Vote:

Senator Beck made a motion that HJR 41 BE CONCURRED IN AS AMENDED. Those in favor - 9; opposed - 0. MOTION CARRIED.

Senator Jergeson will carry HJR 41 to the floor of the Senate.

EXECUTIVE ACTION ON HOUSE BILL 120

Discussion:

The committee members were presented with copies of amendments for HB 120. Chairman Jergeson pointed out the two options of language for amendment 8. Doug Sternberg, Legal Counsel, stated he met with Lorna Frank of the Farm Bureau, and Tim Sweeney, attorney for the Humane Society, and they concurred in amendments 1 through 7, and 9. Mr. Sternberg explained the various amendments, and the options for amendment 8. In view of the amount of time spent on the wording of the options for

amendment 8, Chairman Jergeson asked Lorna Frank and Tim Sweeney if they wished to present their reasons for their choice of wording. They briefly gave their views on the wording of amendment 8.

Senator Beck stated that he believes the Humane Society should draft a separate bill to cover the gray area regarding their position.

Amendments, Discussion, and Votes:

Senator Aklestad made a motion that amendments 1,2,3,4,5,6,7,9 and 1-(b) of 8 be accepted.

Senator Beck made a substitute motion to accept all the amendments except number 7, and 8 in its entirety.

Senator Jergeson stated it was his opinion that the sponsor did not intend to cause problems for the Humane Society. He believes either option in Amendment 8 clearly resolves their problem, and to not insert it makes it very unclear that the problem has been resolved.

Senator Beck stated in defense of his motion he wished to state that he does not believe the bill hurts the Humane Society, nor restricts them from any of the practices they currently engage in.

Recommendation and Vote:

Chairman Jergeson called for a roll call vote on Senator Beck's substitute motion to adopt amendments 1 through 6, and 9. Those in favor - 2 (Beck, Devlin); opposed - 7. MOTION FAILED.

Senator Williams made a substitute motion that amendments 1 through 7, 9, and 2-(b) of 8 be accepted. Those in favor - 2 (Williams, Jergeson); opposed - 7. MOTION FAILED.

Chairman Jergeson advised they would revert to the original motion by Senator Aklestad that amendments 1, 2, 3, 4, 5, 6, 7, 9 and 1-(b) of 8 be accepted. Those in favor - 9; opposed - 0. MOTION CARRIED.

Senator Devlin made a motion that HB 120 BE CONCURRED IN AS AMENDED. Those in favor - 9; opposed - 0. MOTION CARRIED.

Senator Devlin will carry HB 120 to the floor of the Senate.

EXECUTIVE ACTION ON HOUSE BILL 622

Recommendation and Vote:

Senator Rea made a motion that HB 622 DO BE CONCURRED IN.

ROLL CALL VOTE

SENATE COMMITTEE AGRICULTURE

Date 3/6/91 Bill No. HB 120 Time 4:55

NAME	YES	NO
Sen. AKLESTAD	X	
Sen. BECK	X	
Sen. BRUSKI	X	
Sen. DEVLIN	X	
Sen. REA	X	
Sen. SWIFT	X	
Sen. WILLIAMS	X	
Sen. KOEHNKE	X	
Sen. JERGESON	X	

Dorothy Quinn
Secretary

Greg Jergeson
Chairman

Motion: Senator Devlin made a motion that HB 120 Be CONCURRED IN AS AMENDED. Those in favor - 9; opposed - 0. Motion CARRIED.

ROLL CALL VOTE

SENATE COMMITTEE AGRICULTURE

Date 3/6/91 Bill No. HB 120 Time

NAME	YES	NO
Sen. AKLESTAD	X	
Sen. BECK	X	
Sen. BRUSKI	X	
Sen. DEVLIN	X	
Sen. REA	X	
Sen. SWIFT	X	
Sen. WILLIAMS	X	
Sen. KOEHNKE	X	
Sen. JERGESON	X	

Dorothy Quinn
Secretary

Greg Jergeson
Chairman

Motion: Sen. Aklestad made a motion that Amendments 1, 2, 3, 4, 5, 6, 7, 9 and 1-(b) of 8 be accepted. In favor - 9; Opposed - 0. Motion CARRIED.

ROLL CALL VOTE

SENATE COMMITTEE AGRICULTURE

Date 3/6/01 Bill No. HB 120 Time

NAME	YES	NO
Sen. AKLESTAD		X
Sen. BECK	X	
Sen. BRUSKI		X
Sen. DEVLIN	X	
Sen. REA		X
Sen. SWIFT		X
Sen. WILLIAMS		X
Sen. KOEHNKE		X
Sen. JERGESON		X

Dorothy Quinn
Secretary

Greg Jergeson
Chairman

Motion: Sen Beck made a substitute motion to accept all the amendments except number 7, and number 8 in its entirety. Those in favor - 2 (Beck Devlin)
Opposed - 7.
Motion FAILED.

ROLL CALL VOTE

SENATE COMMITTEE AGRICULTURE

Date 3/6/91 Bill No. HB 1120 Time

NAME	YES	NO
Sen. AKLESTAD		X
Sen. BECK		X
Sen. BRUSKI		X
Sen. DEVLIN		X
Sen. REA		X
Sen. SWIFT		X
Sen. WILLIAMS	X	
Sen. KOEHNKE		X
Sen. JERGESON	X	

Dorothy Quinn
Secretary

Greg Jergeson
Chairman

Motion: Sen. Williams made a substitute motion that amendments 1 through 7, 9, and 2-(b) of amendment 8 be accepted. Those in favor - 2; Opposed - 7. Motion FAILED.

SENATE STANDING COMMITTEE REPORT

March 7, 1991

MR. PRESIDENT:

We, your committee on Agriculture, Livestock, and Irrigation having had under consideration House Bill No. 120 (third reading copy -- blue), respectfully report that House Bill No. 120 be amended and as so amended be concurred in:

1. Page 1, line 16.
Following: "animal"
Strike: "used in"
Insert: "lawfully confined for"

2. Page 1, line 21.
Following: "is"
Insert: "lawfully"

3. Page 3, line 5.
Following: "property;"
Insert: "or"

4. Page 3, lines 6 through 9.
Following: "(b)" on line 6
Insert: "lawful"
Following: "property" on line 6
Strike: remainder of line 6 through "act" on line 9

5. Page 3, line 21.
Following: "is"
Insert: "lawfully"

6. Page 4, line 18.
Following: "means"
Insert: "with the intent to commit criminal defamation"

7. Page 4, line 24.
Following: "a"
Insert: ": (a)"

8. Page 4, line 25.
Following: "law"
Insert: "; and
(b) humane animal treatment shelter or its employees whose primary purpose is the bona fide control or humane care of animals or the enforcement of 45-8-211"

9. Page 6, line 2.
Strike: "20"
Insert: "10"

Signed: Greg Jergeson

Greg Jergeson, Chairman

3/7/91 SB 3/7 1:16
Amd. Coord. Sec. of Senate

SENATE
HB 120

SENATE COMMITTEE OF THE WHOLE AMENDMENT

March 9, 1991 11:36 am

Mr. Chairman: I move to amend House Bill No. 120 (third reading copy -- blue) as follows:

1. Page 4, line 25.
Following: "under law"
Insert: "or to the lawful activities of a financial institution or other secured party"

ADOPT

REJECT

Signed: Thomas E. Towe
Senator Towe

3-9-91
Amd. Coord.

3-9 12:35
Sec. of Senate

SENATE
HB 120

HOUSE BILL NO. 120

INTRODUCED BY HAYNE, STEPPLER, KELLER, ELLISON, COBB, ZOOK, SWYSGOOD, PETERSON, CODY, M. HANSON, GRINDE

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE FARM ANIMAL AND RESEARCH FACILITIES PROTECTION ACT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** Short title. [Sections 1 through 5] may be cited as the "Farm Animal and Research Facilities Protection Act".

NEW SECTION. **Section 2.** Definitions. As used in [sections 1 through 5], the following definitions apply:

(1) "Animal" means any warmblooded or coldblooded animal ~~used in~~ LAWFULLY CONFINED FOR food, fur, or fiber production, agriculture AND ITS RELATED ACTIVITIES, research, testing, or education. The term includes but is not limited to dogs, cats, poultry, fish, and invertebrates.

(2) "Animal facility" includes a vehicle, building, structure, research facility, or premises where an animal is LAWFULLY kept, handled, housed, exhibited, bred, or offered for sale.

(3) "Consent" means agreement in fact, whether express or apparent.

(4) "Deprive" means to:

(a) withhold an animal or other property from the owner permanently or for such a period of time that a major portion of the value or enjoyment of the animal or property is lost to the owner;

(b) restore the animal or other property only upon payment of reward or other compensation; or

(c) dispose of an animal or other property in a manner that makes recovery of the animal or property by the owner unlikely.

(5) "Effective consent" means consent by the owner or by a person legally authorized to act for the owner. Consent is not effective if it is:

(a) induced by force or threat;

(b) given by a person that the offender knows is not legally authorized to act for the owner; or

(c) given by a person who by reason of youth, mental disease or defect, or being under the influence of drugs or alcohol is known by the offender to be unable to make reasonable decisions.

(6) "Notice" means:

(a) oral or written communication by the owner or someone with apparent authority to act for the owner;

(b) fencing or other enclosure obviously designed to exclude intruders or to contain animals; or

(c) a sign or signs posted on the property or at the entrance to a building that are reasonably likely to come to the attention of intruders and that indicate that entry is forbidden.

(7) "Owner" means a person who has:

(a) title to the property; OR

(b) LAWFUL possession of the property~~,--whether--lawful or-not;-or~~

~~(c)--a--greater-right-to-possession-of-the-property-than the-person-alleged-to-have-committed-the-unlawful-act~~.

(8) "Person" means an individual, state agency, corporation, association, nonprofit corporation, joint-stock company, firm, trust, partnership; two or more persons having a joint or common interest; or some other legal entity.

(9) "Possession" means actual care, custody, control, or management.

(10) "Research facility" means a place, laboratory, institution, medical care facility, elementary school, high school, college, or university at which a scientific test, experiment, or investigation involving the use of a living animal is LAWFULLY carried out, conducted, or attempted.

NEW SECTION. **Section 3. Unlawful acts.** (1) A person who does not have the effective consent of the owner may not acquire or otherwise exercise control over an animal

facility, an animal from an animal facility, or other property from an animal facility with the intent to deprive the owner of the facility, animal, or property or to damage the enterprise conducted at the animal facility.

(2) A person who does not have the effective consent of the owner and who intends to damage the enterprise conducted at an animal facility may not:

(a) damage or destroy an animal facility or an animal or property in or on the premises of an animal facility;

(b) enter an animal facility that is at the time closed to the public with the intent to commit an act prohibited by [sections 1 through 5];

(c) remain concealed in an animal facility with the intent to commit an act prohibited by [sections 1 through 5];

(d) enter an animal facility and commit or attempt to commit an act prohibited by [sections 1 through 5];

(e) enter an animal facility to take pictures by photograph, video camera, or other means WITH THE INTENT TO COMMIT CRIMINAL DEFAMATION; or

(f) enter or remain on the premises of an animal facility if the person:

(i) had notice that the entry was forbidden; or

(ii) received notice to depart but failed to do so.

(3) The provisions of [sections 1 through 5] do not

apply to lawful activities of a:

(A) government agency or its employees who are carrying out their duties under law OR TO LAWFUL ACTIVITIES OF A FINANCIAL INSTITUTION OR OTHER SECURED PARTY; AND

(B) HUMANE ANIMAL TREATMENT SHELTER OR ITS EMPLOYEES WHOSE PRIMARY PURPOSE IS THE BONA FIDE CONTROL OR HUMANE CARE OF ANIMALS OR THE ENFORCEMENT OF 45-8-211.

NEW SECTION. **Section 4. Action for damage.** (1) A person who has been damaged by reason of a violation of [section 3] may bring against the person who caused the damage an action in the district court to recover:

(a) an amount equal to three times all actual and consequential damages; and

(b) court costs and reasonable attorney fees.

(2) [Sections 1 through 5] may not be construed to affect any other rights of a person who has been damaged by reason of a violation of [sections 1 through 5]. The provisions of subsection (1) may not be construed to limit the exercise of any rights arising out of or relating to a violation of [section 3].

NEW SECTION. **Section 5. Penalty.** (1) A person convicted of violating [section 3(2)(f)] shall be fined not less than $50 or more than $500 or be imprisoned in the county jail for a term not to exceed 3 months, or both.

(2) A person convicted of an act that violates [section

3(1) and (2)(a) through (2)(e)] and that results in $500 or less in damage or destruction shall be fined not more than $500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(3) A person convicted of an act that violates [section 3(1) and (2)(a) through (2)(e)] and that results in more than $500 in damage or destruction shall be fined not more than $50,000 or be imprisoned in the state prison for a term not to exceed 5 ~~20~~ 10 years, or both.

NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.

-End-